Stewart & Partners
business advisors & chartered accountants

Briefing: How to prepare for Brexit – checklist

While there is still little certainty around the UK's future relationship with the European Union, businesses that trade with or provide services in the EU need to have contingency plans in place that are sufficiently flexible to cope with a variety of possible outcomes. This checklist covers the areas that should be considered.

1. Where will you get more cash, if you need it?

Assess how much working capital you need. Consider how you would access additional funds, if needed.

The economic consequences of Brexit are unclear and will depend upon the terms of free trade agreements that the UK can negotiate with the EU and other key trading partners. These might not be fully in place by the time the transition period ends and the UK leaves the EU. With cash flows already under strain due to the pandemic, businesses should plan ahead and think about how they could deal with further economic uncertainty. Economic uncertainty might affect sales, the collection of debtors or inventory levels. Businesses may need more cash at hand so they can make sure they continue to make payments on time.

2. What help do you need to access potential new markets?

Consider how you would start activities in new markets, should opportunities arise.

The UK government is seeking new trade arrangements with countries outside of the EU/EEA. These trade agreements are largely still in progress. Should they result in improved trade conditions for UK businesses, there may be first mover advantage in accessing these markets.

3. Have EU/EEA/Swiss-national employees registered for the settlement scheme?

Ensure employees are aware of the settlement scheme and the need to register.

Employees who are EU/EEA/Swiss nationals will need to register for the settlement scheme by 30 June 2021. The settlement scheme ensures they retain the right to continue to live in the UK.

4. How would additional customs duties affect your sales and supply chain?

Understand the different commodity codes of your major imports and exports and the tariff rates that would apply if there is no deal.

Tariffs, or customs duties as they are known in the UK, are a tax levied on imports. There are no tariffs on trade wholly within the EU customs union, but unless the UK reaches a free trade deal with the EU they will apply to UK-EU trade. Currently the UK's trade with the rest of the world is subject to EU tariff rates. After the UK leaves the EU, tariffs will depend on preferential trade agreements the UK has negotiated, which can differ from country to country, or on World Trade Organisation (WTO) rules. WTO rules stipulate "most favoured nation" tariff rates, which apply where a preferential tariff has not been negotiated.

Tariffs can be significant for certain items. Equally, some items have zero tariffs under WTO rules. Businesses that only trade with the EU may have no experience of customs duties. They will need to consider the implications for pricing, purchasing decisions and contracts.

5. Are you ready for customs? Have you got your EORI number?

Ensure you have a UK EORI number, if you are a UK business trading with the EU or countries outside the EU. EU businesses will need an EU EORI number to trade with the UK. Consider how you will complete customs documentation.

Once the transitional period ends on 31 December 2020, goods travelling between the UK and EU will need to pass through customs. Customs declarations and Safety & Security Declarations will need to be completed. Simplified procedures will apply for imports to the UK during the six month period ending 1 July 2021.

The UK government has published detailed guidance on how the UK border will operate. Customs documentation and compliance is complex and has financial implications. Businesses importing and exporting goods between the UK and the EU will need to decide whether to use the services of a customs agent or complete documentation themselves. HMRC has said that majority of businesses use an agent. Appropriate software must be used to make declarations and you must hold a CHIEF badge (available from HMRC on request).

Businesses should apply now for a Duty Deferment Account. This enables customs charges including customs duty, excise duty, and import VAT to be paid once a month through Direct Debit instead of being paid on individual consignments. VAT registered businesses can settle import VAT through their VAT returns, but will still need a Duty Deferment Account to defer payment of any customs duties due.

The European Commission has said that on the EU side, customs authorities will carry out controls on the basis of the Union Customs Code. They say they will apply 'the same common risk-based system applied to any other external border of the EU Customs Union'. Significantly, they have confirmed that these administrative border controls will apply even if a free trade agreement is negotiated which provides for zero tariffs or quotas. It remains to be seen how the risk-based system will operate on the ground.

The withdrawal agreement says there will be no 'hard border', customs checks or controls between Ireland and Northern Ireland. The UK government has said there will be 'limited additional process' on goods arriving in Northern Ireland from the UK mainland. It is not yet clear what this will entail. The government says that tariffs will potentially apply to goods ultimately entering Ireland (or the rest of the EU), or 'at clear and substantial risk of doing so'.

6. Have you registered for simplified import procedures?

Consider if you could benefit from simplified import procedures. Businesses will need to be eligible to use them. They mean you may not need to settle VAT and duties (if any) on imports immediately at port UK border controls for imports will be introduced in 3 phases.

From 1 January 2021 there are several Customs controls which will apply. You need to familiarise yourself with each of these.

7. How will your principal contracts be affected by Brexit?

Review your principal contracts to see how they would deal with uncertainty or different trading conditions.

It is particularly important that they adequately clarify the terms for trade across EU borders, including how VAT is dealt with. You will need to consider how your contracts and International Terms and Conditions of Service (INCOTERMS) reflect you are now an international exporter or importer.

8. Do you receive personal data from the EU/EAA?

Review your data flows to identify whether you receive personal data from the EEA, including from suppliers, processors and other group companies.

After the transitional period ends on 31 December 2020 the EU GDPR will no longer be law in the UK. However, as the UK government intends to write the GDPR into UK law, from all practical perspectives, GDPR will continue to apply.

After transition, the UK will be a "third country" until the EU makes an adequacy decision regarding the UK. Until then, the transfer of personal data from the EEA to the UK will only be allowed if 'appropriate safeguards' are in place. Such safeguards include Standard Contractual Clauses (SCCs). SCCs must be inserted into contracts (whether controller to controller or controller to processor) before the transitional period ends, and their wording must follow that approved by the European Commission.

Transfers of personal data to the EU/ EEA from the UK will not be affected and transfers to and from countries outside of the EU/EEA will be subject to the same rules as now.

9. How will changes to VAT affect you?

Consider how you will register for MOSS for online sales in the EU-27. Claim refunds on sales into the EU. Know that anyone sending a parcel valued at £135 or less into the UK from abroad will need to register in HMRC's new digital service and account for VAT due.

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The "mini one stop shop" (MOSS) allows businesses that sell digital services to consumers in EU member states to report and pay VAT via a single return and payment. UK businesses can continue to use the system after the transitional period ends by registering in an EU member state.

UK businesses will lose access to the EU VAT refunds system after the transitional period ends so claims should be made before then.

HMRC is introducing new procedures for parcels sent into the UK from abroad. After the transitional period ends these procedures will apply to parcels sent from the EU. For parcels with a value of less than £135 the business sending the parcel will need to register with HMRC's digital system and settle any VAT and duties due online.

10. Do your corporate reports reflect Brexit risk?

Having evaluated Brexit related risks for your business, consider how they might impact on your reporting. You should consider how uncertainty affects judgements and estimates, going concern and, for businesses that prepare them, viability statements.

For larger companies, the directors' report and strategic report are an opportunity to communicate how the board is taking account of the challenges and opportunities of Brexit. Readers may find disclosures more useful where they distinguish specific, direct challenges to the business model and operations from the effects of broader economic uncertainties.

Uncertainty will mean businesses need to pay particular attention to judgments and estimates, in particular when assessing assets for possible impairment.

Taken from ICAEW Brexit checklist