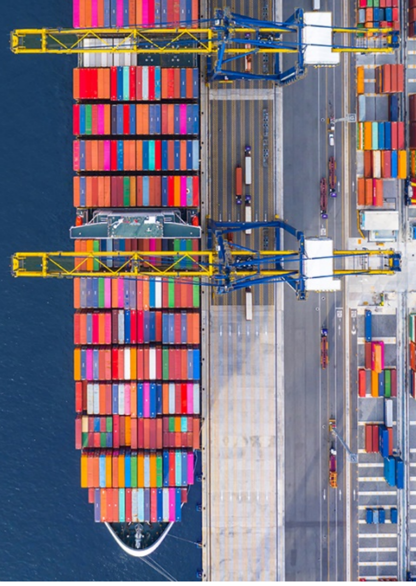

KPMG

What does a Brexit deal mean for business?

December 2020

A free trade agreement has now been agreed between the UK and the EU. Our summary below sets out what this means for business in the coming weeks and months.

What has been agreed?

A free trade agreement has been agreed between the UK and the EU. It will come into force on 1 January 2021.

What does the deal cover and what is missing?

It is a fairly 'skinny' deal. It focuses predominantly on goods, with most UK and EU goods not subject to tariffs or quotas. However, if you import and/or Export with the EU the process at the border will fundamentally change

There is little in the deal for services. This is not unexpected as most existing free trade agreements are light on services, but this nonetheless poses a longer-term challenge for UK service-based firms.

Separate unilateral decisions will be taken on data and financial services. Both sides have agreed to a temporary arrangement to allow for data transfers while a longer-term adequacy agreement is considered.

Many citizens' rights issues were covered in the Withdrawal Agreement last year, though EU citizens living in the UK will still have to secure settled status by the end of June 2021 to protect their rights.

What does this mean for business?

At a headline level:

— **A deal doesn't mean status quo.** For the first time in many years we'll have a border for services, data and goods across the single market. This will bring challenges as well as opportunities.

— **Businesses still need to implement a new way of working with EU markets.** This includes new 'rules of origin', supplier declarations and customs paperwork, a new immigration system, the end of freedom of movement, and planning for business travel, among other changes.

— **Business needs to keep an eye on the evolving UK-EU relationship.** There is an automatic review of the deal every five years, while both sides can engage in cross-sector retaliation in cases of violation of the agreement.

Our economic outlook:

— **We estimate that under a deal, GDP growth in 2021 could total 6.1%.** Under a no deal, growth would have been lower at 3.3%.

— **Under a deal scenario, the economy will reach pre-Covid output levels in Q3 2022**. In a no deal scenario, this would have not been reached until Q2 2024.

Operations and commercial

Supply chain and logistics disruption:

— **Some port disruptions are expected,** predominantly at all short sea ports (including Dover and Northern Ireland routes) on both sides of the Channel and Irish Sea, as border authorities implement new changes. Working with your logistics providers and ensuring supply chain visibility is paramount.

— **'Rules of Origin' are now a key focus,** as an integral part of the deal, the origin of component products when importing and exporting to Europe is required with new documentation and calculations required.

— **Commercial contracts will change,** as clients look to understand the P&L impact to the business, the inco-terms and contractual elements will all need to be reviewed.

Compliance and regulatory

Customs – documentation and tariffs:

- **The process at the border will still change**. Customs declarations either side of the border will be required, and business will have to put in place further preparations, including holding registrations and having the data to support these declarations.
- **If these issues remain unresolved,** the ability to import and export post-transition is compromised. Contracts must be in place to ensure service provision, as capacity in the customs clearance market is constrained.
- **A deal means duty and quota free access to each other's markets – but only for goods that meet specific rules of origin.** It is not necessarily the case that all goods moving across the UK/EU border will be duty free. Control mechanisms will be needed to assess whether the rules of origin have been met.

Customs – Northern Ireland (NI):

- **Controls on imports into NI from other parts of the UK will begin on 1 January 2021,** with security and fiscal import declarations being required. An additional three-month period of transition will be provided to agri-food importers to prepare for a more physically based control regime.
- **Customs duty will be due on GB goods "*at risk*" of movement to the Republic of Ireland.** Broad definitions of particular trades or traders that are deemed to be "not at risk" are part of agreements in principle reached by the two sides on 10 December. This includes a new UK Trader Scheme.
- **Other parts of the agreements in principle cover access of NI goods** into the rest of the UK without the need for export declarations and duty, and anti- avoidance provisions to stop EU businesses using movements through NI to avoid UK customs controls.

Tax implications:

- **The UK will lose access to EU directives,** leading to additional taxation on certain transactions, and will no longer have access to the arbitration convention governing tax disputes.
- **The agreement contains provisions for coordination of social security.** UK nationals travelling, working or living in the EU (and vice versa) will retain entitlements to some benefits. Cross-border workers and employers will only be liable to pay social security contributions in one state at a time.
- **A wide range of legislation and treaty law will cease to apply** where there are provisions governing EU established entities.

State aid and level playing field:

- **The deal agreed contains some "level playing field" provisions.** The UK has agreed not to undercut current levels of protection in areas such as environmental standards and labour laws.
- **There is also a 'rebalancing mechanism' to manage future divergence.** Both sides can diverge from aspects of the agreement but also have the power to impose temporary tariffs if they believe there are distortions to trade or investment.
- **A formal review of the level playing field arrangements can take place after four years.** This could lead to both sides changing the baseline standards they commit to over time. However, failure to reach an agreement on new standards could result in tariffs being imposed or a suspension of the trade part of the deal.
- **Both sides have agreed to common principles on state aid.** The UK is also bound by state aid restrictions in its bilateral free trade agreements as well as through the rules of membership of the WTO and its commitments to the OECD in relation to harmful tax practices.
- **Nevertheless, we should expect to see increased government activity in some areas** that were previous restricted under the rules of the single market, including the expansion of regional or sectoral grants, tax incentives or holidays (possibly focused around the planned "freeports" programme).

Legal and governance

Law and regulation:

- **Regulated sectors will lose "passporting" rights**. Businesses operating in regulated sectors such as pharmaceutical and financial services are likely to need to secure EU registrations/approvals, which may require EU establishments.

Data and IT:

- **EU to UK data transfers will be covered by a separate adequacy decision for the UK**. The EU is unlikely to complete its adequacy assessment in time for the end of the transition period.
- **A temporary arrangement to allow EU to UK data transfers has been agreed.** This will initially last for four months and can be extended to six months.
- **If the two sides fail to reach agreement and UK is not given an adequacy decision after this period,** businesses will need to rely on other mechanisms – including standard contractual clauses and impact assessments – to allow personal data transfers from the EU to the UK.
- **The Information Commissioner's Office has released guidance** which advises organisations that, from a UK perspective, UK to EU transfers will not be subject to further requirements.

Financial budget and planning:

- **Financial services have not been a priority in the talks.** However, the sector started preparing early for Brexit, as a result of early understanding that passporting would almost certainly end.
- **For those with a purely domestic business that meant no change,** but for many of those operating in the UK and Europe it meant organisational restructures in order to make sure they could carry on that cross-border business, even in the scenario of no deal at all.
- **As a result, customers – business or personal – will see little or no change in products and services,** with some very minor exceptions. For customers, nothing will be noticeably different on day one, for example if you need to borrow money – for working capital or as a loan – or visit a branch or get money from an ATM.

What happens next?

- **The deal will be ratified by both sides.** The UK Parliament will ratify the deal ahead of the end of the transition period, while the European Parliament will formally agree the deal in January following provisional approval by EU leaders.
- **Talks will continue on a number of issues.** In financial services, both sides are aiming to negotiate and sign a Memorandum of Understanding for regulatory cooperation by March 2021. A decision on data adequacy is also expected in the first half of the year.
- **Further guidance is also expected in the coming weeks.** For example, on mutual recognition of professional qualifications, the UK government has indicated it will provide help and guidance to regulators and professional bodies on how to make use of the provisions within the deal.

A number of business challenges remain, even with a deal reached. Our specialists can help you comprehensively assess and prepare for your Brexit risks across the following 15 areas:

Key

Red – significant impact to operations and business ways of working

Amber – implement current Brexit plans and monitor ongoing changes

Green – limited planning and actions required

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