

Brexit - Business Checklist

21/12/2018



Isle of Man
Government

Reillys Ellan Vannin

Checklist Contents

- 1 Cross Border Trade 3
- 2 Taxation 4
- 3 Currency Risk 6
- 4 Product Regulations..... 6
- 5 Intellectual Property Rights 6
- 6 Other Legal Issues..... 8
- 7 Employment and staff 8

The UK will cease to be a member of the European Union on 29 March 2019 and this checklist has been prepared to help local businesses consider the changes and challenges that may flow from either a deal, or ‘no deal’ scenario.

The UK’s withdrawal from the EU will bring changes for business of every size and in every sector in the UK and will impact many, if not all businesses in the Isle of Man.

While the Isle of Man is not leaving the EU, we will nevertheless see the end of Protocol 3, which provided for rights of access to the EU market for our goods.

In that sense, Isle of Man companies which move goods in and out of the EU, will be required to align with any new regime for the movement of goods, including customs and VAT arrangements, just as they will apply to the UK.

Meanwhile, for services (both digital and financial), the Isle of Man has been and will remain a third country in respect of trade with the EU.

The UK will also be treated as a third country under the current proposed deal, or indeed in the event of a ‘no deal’, but any changes relating to services market access for the UK brought about by Brexit may be of limited significance to the Isle of Man, given our existing third country status for services.

This checklist focuses on those businesses which are potentially most likely to be affected more immediately and directly from the UK’s withdrawal from the EU, which includes manufacturers and those involved in importation of goods from the EU, and/or the rest of the world, including retail and construction sectors, and updates will be released if there are any important new developments to take account of.

Given that the UK’s date for withdrawal was set in March 2017 and that since July 2017, the UK Government and European Commission have set out the details of what is expected to be the only deal on the table, some companies will already be fully planned for the challenges and possibly new opportunities ahead arising from the UK’s EU exit.

For those which are not, there is still time to prepare, albeit in the event of a ‘no deal’, such preparations would need to be in place by 29 March 2019.

If a deal is confirmed, there would be a further 21 month window to plan during the transition/implementation period up to 31 December 2020, during which time the provisions set out in Protocol 3 would continue to apply.

Certainly, if they have not already done so, businesses likely to be affected in March, particularly by a ‘no deal’ scenario, should undertake a ‘health check’ and may benefit from a readiness test of existing business plans - hopefully this checklist will help with some of the key questions to consider.

Time spent now thinking through the changes that Brexit may bring to your business could be very worthwhile and could even yield real benefits in the future.

To support local businesses, the Department for Enterprise has also introduced a new grant category under its Business Improvement Scheme for obtaining external consultancy to help with Brexit planning:

- Businesses in any sector may apply, not just exporters;
- 50% support (up to a maximum of £5,000) is available.

Area	Context	Considerations/Actions
1 Cross Border Trade		
UK/EU customs checks	The IOM and UK as 'third countries' may mean that IOM and UK exporters to the EU may need to start making customs declarations on all goods destined for EU.	<p>Consider what customs arrangements and documents you currently have to comply with for non - EU markets; you are likely to have to apply the same treatments to all imports from and exports to the EU in future.</p> <p>Businesses that will import goods from the EU or export goods to the EU will need to apply for an EORI number. It is recommended that if you anticipate you will need an EORI number that you apply now to avoid any backlog. More information on the requirement for an EORI number can be found here: https://www.gov.uk/guidance/get-a-uk-eori-number-to-trade-within-the-eu</p>
Potential delays at UK/EU border	With potential customs checks between the UK and EU borders, there may be significant delays in shipments.	<p>Have you considered how resilient your supply chain is to border delays?</p> <p>Do you have penalty clauses in your contracts for late delivery of your inbound goods?</p> <p>Have you consulted your logistics provider regarding anticipated changes in arrangements?</p> <p>Do you need to carry and finance additional buffer stocks and find storage for these?</p>
Tariffs on UK - EU Trade	In the event of a 'no deal' Brexit there will be tariffs between the UK and EU based on MFN (Most Favoured Nation) tariffs which apply when countries do not have any other special trade agreements.	<p>Consider if there will be additional costs to be financed through MFN tariffs, if there is no deal.</p> <p>Do you know the HS codes (international classification codes) for your products or the EU MFN tariff that would apply to them?</p>
Rules of Origin in UK - EU Trade	Even if the UK has a deal which includes a zero - tariff trade agreement with the EU, IOM and UK companies will need to prove that their	<p>If you are a supplier/manufacturer/exporter of goods, can you provide proof of origin if required?</p> <p>Can you evidence your source of components or are you able to audit your suppliers to prove your goods content?</p>

	products are of IOM/UK origin to benefit from this, though the exact terms are yet to be defined. (NB: origin rules generally mean greater than 50 - 55% of the product is locally sourced).	
EU Trade Agreements with Third Countries	Although the UK's intention is to secure the benefits of existing EU trade deals (about 70) with other countries, these may take time to secure and in the event of 'no deal' or if not secured, preferential trade terms will no longer be available.	Consider if you currently benefit from preferential duties and trade terms with third countries which are available to you by virtue of the UK's EU membership (eg FTA with South Korea) and what the costs and other implications might be if these are lost? Consider if these are critical markets and your customer's potential reaction to the changes and how you might mitigate the additional costs of doing business with them.
Customs facilitation and reliefs etc.	There are a number of duty relief/deferral schemes available to IOM and UK businesses from Customs. There is also a trusted trader scheme - AEO (Authorised Economic Operator) that may be relevant if your supply chain is already party to it. IOM Customs and Excise can advise.	Consider if there may be any additional customs reliefs or trusted trader schemes you might use - contact IOM Customs and Excise for information. See also: https://www.gov.uk/duty-relief-for-imports-and-exports And: https://www.gov.uk/guidance/authorised-economic-operator-certification Consider how knowledgeable are your staff about customs matters, and if additional staff or training might be valuable.
2 Taxation		
Import VAT	With the UK's Brexit deal as it exists on the table, or in the event of 'no deal',	Consider cash flow and other implications of making earlier VAT payments or the possibility of setting up a deferment account with Customs.

	<p>both the UK and IOM would exit the EU VAT area. The UK proposes to permit import VAT to be declared on VAT returns for many VAT registered businesses. For those that are not registered, VAT may be payable at the border on goods imports from the EU.</p>	<p>See also: https://www.gov.uk/government/publications/vat-for-businesses-if-theres-no-brexit-deal/vat-for-businesses-if-theres-no-brexit-deal</p>
<p>VAT - General</p>	<p>Businesses may need to have VAT registrations in EU countries in future if they want to hold stocks there.</p> <p>Businesses may no longer be able to recover VAT incurred on supplies from EU countries which is presently possible under the EU refund scheme.</p> <p>Traders may in future need to register under the MOSS Scheme (Mini One Stop Shop) in an EU country if the UK/IOM has to discontinue such a scheme, especially if future proposals for it to extend to goods as well as services come in.</p>	<p>Consider the impact of VAT changes on the business and any financial and other planning implications.</p> <p>Consult IOM Customs and Excise and VAT Office if uncertain of changes ahead.</p>
<p>Deferment Accounts</p>	<p>Deferment Accounts - (allowing for deferment of VAT and Customs Duty payment for up to 1</p>	<p>Consider if the business would be eligible and if a deferment account to postpone VAT and Customs Duty on imports would be helpful.</p>

month) may be available to qualifying companies on application to IOM Customs and VAT Office.

3 Currency Risk

Currency volatility	The Bank of England predicts major currency devaluation in the event of a 'no deal' Brexit and volatility even in the event of a deal.	Consider the currencies you are paid in, possible currency movements and impact on your cash flow/finances. Also, consider if new contracts can be made more favourable to cover this, or if other hedging of currency risks can be employed.
----------------------------	--	--

4 Product Regulations

EU Regulation	It remains unclear whether the EU will permit UK regulators to continue to licence goods for the EU market after Brexit or conduct conformity assessment checks on goods for EU markets acceptable to the EU.	Consider which regulatory bodies and measures you have to comply with and whether you may have to take steps to deal with EU bodies instead of UK ones for this.
----------------------	---	--

5 Intellectual Property Rights

Copyright	Copyright protection is underpinned by international treaties and does not depend on the UK's membership of the EU, so will not be affected if the UK leaves the EU without a deal. There are a number of 'cross -border' EU mechanisms but only one of these, the sui	Businesses relying on sui generis database protection rights may need to consider other protections such as restrictive licensing agreements.
------------------	--	---

	<p>generis database rights, applies in the Island. The sui generis database rights would however be 'lost' under a 'no deal' scenario.</p>	
<p>Patents</p>	<p>The IOM does not have its own Patent Office. Instead, patent applications to the UK Intellectual Property Office automatically cover both the UK and the IOM. UK and EU law on patents applies to the IOM. The UK's intention is that existing systems, such as that for supplementary protection certificates, will remain in place. The IOM will similarly work with the UK to ensure that those mechanisms continue in a 'no deal' scenario.</p>	<p>There should be no need for immediate action as the current rules remain in place at the point the UK exits the EU.</p>
<p>Trademarks and registered designs</p>	<p>Anyone in the world can apply for an EU trademark or registered Community design. These rights cover all EU member states, including the UK. These rights are also recognised in the IOM. However, in the event of Brexit, EU trademarks and registered designs</p>	<p>No immediate action should be required, though businesses with trademark registrations should monitor the situation for new legal developments ahead.</p>

will no longer cover the UK. The UK intends that equivalent UK protections will be granted to existing right holders when the UK exits the EU. The IOM will work with the UK Government to ensure that those rights also cover the Island in that event.

6 Other Legal Issues

Contracts

Terms of contracts with customers and suppliers in existing contracts may no longer be valid, relevant, or enforceable after Brexit. New contracts may need expert advice on drafting.

Consider what contracts may be open to challenge or non-performance and if they depend on references to the EU and EU regulations and seek expert legal advice, as appropriate.

7 Employment and staff

Workforce retention

If you employ EEA nationals, the IOM is planning to introduce a Settlement Scheme offering the same rights to them and their families to stay in IOM as in the UK (as negotiated by the UK in their proposed deal). In the event of 'no deal', a modified scheme is expected, but offering similar rights.

Consider the need to reassure affected employees about their status and for them to enquire or apply for Settlement via the IOM Immigration Office as soon as possible.

See: <https://www.gov.im/categories/travel-traffic-and-motoring/immigration/eu-nationals/brexit-eu-settlement-scheme/>

Also see:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf

Recruitment of staff	The UK is planning future changes to the immigration rules for new applicants (including EEA and non EEA Nationals) and the IOM's position is expected to mirror these.	Consideration may need to be given to the process of making visa applications for new EEA recruits and businesses may wish to monitor the UK Immigration websites for developments (see also: https://www.gov.uk/government/publications/migration-advisory-committee-mac-report-eea-migration) or consult the IOM Immigration Office for further information.
-----------------------------	---	--

For further information:

DEPARTMENT FOR ENTERPRISE:

Brexit lead - Steven Beevers: tel. 686402; email steven.beevers@gov.im

Manufacturing lead - Kirree Goberman: tel. 687148; email Kirree.goberman@gov.im

Retail and Construction lead - Tim Cowsill: tel.687147; email tim.cowsill@gov.im

Business Improvement Scheme (grants) - tel. 687333; email enterprisesupport@gov.im

IOM CUSTOMS AND EXCISE AND VAT OFFICE

Advice Centre: tel. 648130; email Julian Briercliffe: julian.briercliffe@gov.im

IOM IMMIGRATION OFFICE

<https://www.gov.im/categories/travel-traffic-and-motoring/immigration/eu-nationals/brexit-eu-settlement-scheme/>

CABINET OFFICE

Useful Brexit Website links:

<https://www.gov.im/about-the-government/departments/cabinet-office/brexit-what-next-for-the-isle-of-man/technical-notice/>

<https://www.gov.im/about-the-government/departments/cabinet-office/brexit-what-next-for-the-isle-of-man/reports-on-brexit/>

