

After Brexit: Navigating a new world

FEBRUARY 2020

On 31 January 2020 (at midnight CET, 11pm UK time, **exit day**), the UK left the EU. In one sense, this marks the end of the process that began with the referendum on the UK's continued membership of the EU in June 2016, and it provides some important elements of certainty for business. But at the same time, over the remainder of 2020 and beyond, many questions remain to be answered about the content of future UK trade deals with the EU and others; how quickly they will be concluded; and what their impact will be on businesses operating in or selling to the UK.

As the world's largest law firm, we have access to regulatory and trade expertise in all the world's major economies, and UK specialists who have been analysing the Brexit process and its impacts from the start. We are uniquely well placed to help you deal with the post-Brexit legal landscape, wherever your business is based and whatever the nature of its involvement in UK markets.

Legal underpinning

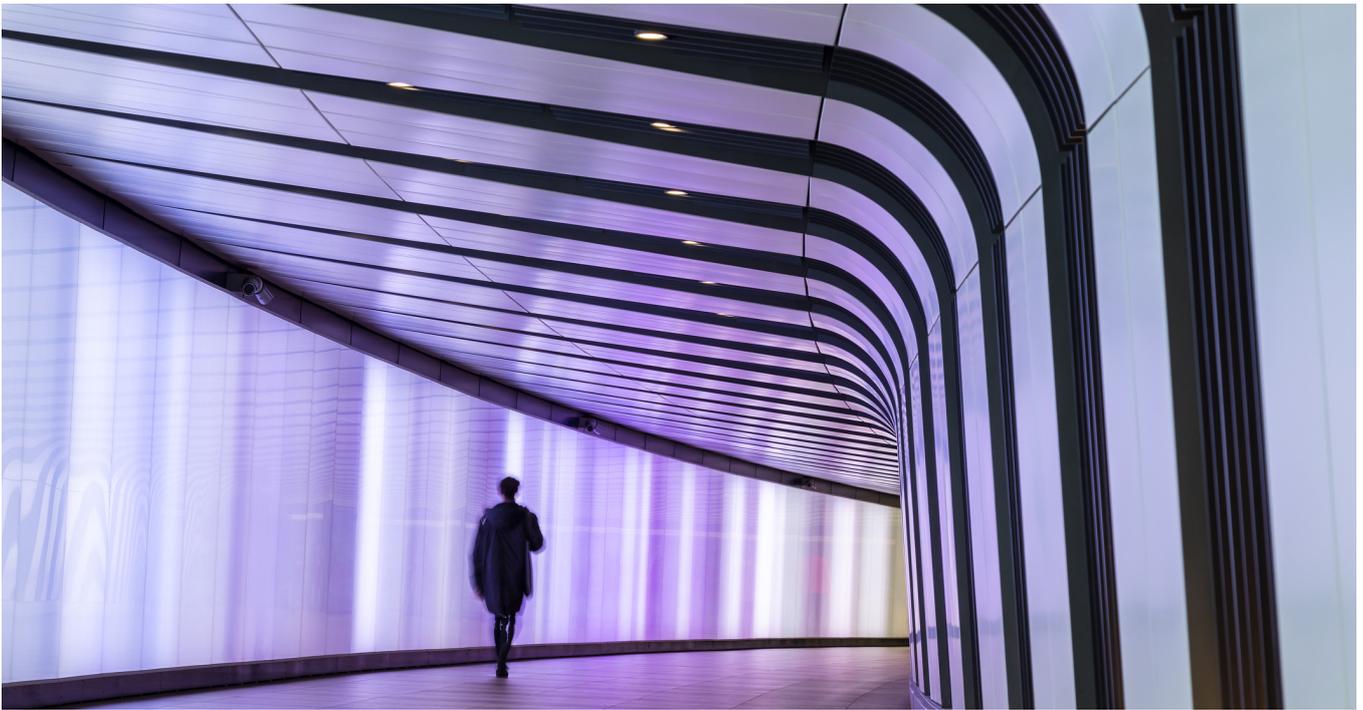
The UK's departure from the EU is a profound change, but the immediate impact on UK law and regulation of the UK ceasing to be an EU member state is limited in two important ways.

- Under the UK-EU agreement on the UK's withdrawal from the EU (**the Withdrawal Agreement**), virtually the whole of EU law remains "applicable to and in the UK" from exit day until

at least 31 December 2020. The Withdrawal Agreement calls this the **transition period**.

- Under the European Union (Withdrawal) Act 2018 (the **2018 Act**), all the EU law that applies in and to the UK immediately before the end of that period will continue in force as UK domestic law (with modifications) unless and until new UK legislation replaces or amends it.

The Withdrawal Agreement provides for the transition period to end on 31 December 2020, unless the UK and EU agree, by 1 July 2020, to extend it for one or two years. The UK government has indicated that it does not wish to seek such an extension. The European Union (Withdrawal Agreement) Act 2020 states that what it calls the **implementation period** ends on 31 December 2020.



Beyond the transition

During the transition or implementation period (**TP/IP**), the UK and EU have a time-limited opportunity to negotiate, against a stable background, the terms of their future relations in respect of trade and the other areas that EU law currently regulates. At the end of the TP/IP, any given area of UK-EU relations either will or will not be regulated by one or more new UK-EU agreements.

The EU has emphasised that the extent of any new UK-EU agreements will depend on the UK continuing to be aligned with certain EU regulatory norms (e.g. on state aid, environmental protection and workers' rights – maintaining a "level playing field" for UK and EU businesses). In areas such as financial services and data protection, continued UK adherence to specific EU regulatory standards will have a material impact on future UK-EU trading relations. Some sections of UK business would be content for the UK to continue to be aligned with many aspects of EU regulation, such as product standards – i.e. not just maintaining in force the EU rules inherited under the 2018 Act, but continuing to update and adapt UK rules to keep pace with post TP/IP changes at EU level. The UK government has stressed the potential for divergence from EU rules. The Withdrawal Agreement requires continued adherence to a raft of EU law in respect of Northern Ireland until at least 2026.

Deal or no deal (again)?

When the Withdrawal Agreement was being negotiated, "deal or no deal?" was used to refer to the fact that at the point when the UK left the EU, there would either be no agreement on the terms of the UK's withdrawal (and so effectively a legal vacuum in UK-EU relations), or the UK would enter a transition period in which the status quo would be largely preserved. At the end of the TP/IP, it is possible that the UK and EU will have reached agreement on all the aspects of their future relations that will be governed by bilateral agreements, or none of them, but it is also quite likely that they will have reached agreement on some, but not on others, so that the question "deal or no deal?" can only be answered for each individual topic or sector. Indeed, in some areas it may take time before it is clear whether the UK and EU will seek to reach a bilateral agreement at all, rather than, for example, simply relying on the provisions of existing multilateral instruments like the WTO rules.

Areas under the spotlight

We set out below some areas where it is likely to make a big difference what kind of deal the UK and the EU are able to strike during the TP/IP, and whether

the UK continues to follow EU rules after it. Click on the links below for an outline of the issues and/or to get in touch with our relevant experts.

People, reward and mobility 	Data protection 	Energy markets and policy 	UK and EU market access 
Intellectual property 	Trade, WTO and customs 	Equity capital markets 	Merger control and competition law 
Environment, Health and Safety 	Financial services regulation 	Lending and loan documentation 	Real estate 
Corporate transactions 	Construction 	Cross-border disputes 	Insurance 

Changing the terms of trade?

Alongside the UK-EU negotiations, the progress, or otherwise, that the UK makes in negotiating trade agreements with non-EU countries like the US will have a significant impact on some UK businesses in both their home and export markets. More generally, the shift from having many of your trading relationships regulated by EU law to relying on a framework set by a range of other, more limited international trade or investment protection agreements is a significant one.

Mitigating risks, maximising opportunities

Overall, the general picture is that, once again, businesses operating in the UK face significant and wide-ranging short-term regulatory uncertainties, and cannot be sure when those uncertainties will be clarified. But there are, of course, steps that you can take to mitigate the potential risks, and even to look for opportunities, arising from this situation. We list below some of the ways in which we can help.

Brexit risk assessment

We can provide you with checklists to help you identify risks that your business may face as a result of Brexit; work with you to rank those risks on a “traffic light” matrix (based on impact and probability); and put you in touch with contacts who can help you to develop a plan for addressing them.



Commercial contracts review

Ongoing contracts need to make appropriate provision for the way that a “no deal” outcome could disrupt performance, and the ways that the regulatory environment in which the parties operate may change as a result of Brexit. We can carry out a targeted audit of your key contracts in this context and provide guidance on how to future-proof them.

Strategic planning tools

Our network of sector, geographic, and legal topic specialists can provide you with a range of tools to inform your strategic approach to Brexit and its aftermath – ranging from overview training or a quick sense-check of your existing strategy to an in-depth workshop on specific issues.



Interface with trade negotiations

Our experts can help you to keep up to speed as negotiations between the UK and the EU and other countries progress. We can also advise you on the potential for influencing outcomes by engaging with one or more of the negotiating parties on points of key importance to you.

Immigration and people review

Advice on implications for EU/EEA employees including preparation of post TP/IP readiness plans, briefing internal stakeholders on talent considerations and communication strategy, training for HR teams and proactive management of the concerns and requirements of employees.



Webinars, events and insights

We have held a series of webinars and events on Brexit developments, and published a range of briefings and more in-depth pieces of analysis. If you would like to receive notifications of future webinars, events or publications, please [click here](#).

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