Briefing Paper: Brexit and Business – Preparing for a 'no-deal'

Prime Minister Theresa May confirmed recently that the Cabinet had reached agreement in relation to the terms of the UK's Brexit deal with the European Union. The process of turning that agreement into a reality took a further step forward when the EU Member States agreed the deal but it looks set for a rocky road through the UK Parliament. Without Parliamentary approval, there is still a very real possibility of a 'no deal' scenario.

What's the issue

After months of negotiation, resignations from the Cabinet and seemingly constant political upheaval, Theresa May has announced that the terms of the draft 'Brexit' agreement between the UK and the European Union have been agreed by her Cabinet. The draft agreement has also been ratified by the EU and the matter now returns to the UK for a Parliamentary vote.

It is by no means certain whether the terms of the draft agreement will be accepted by the UK Parliament. Political commentators have ventured that Mrs May's biggest struggle will be to get such approval for the deal. It is, of course, possible that even though the deal has been ratified by the EU, it is also still possible that the deal will reach an impasse resulting in the so called 'no deal' scenario.

From HMRC's perspective, a 'no deal' outcome is still a distinct possibility. It has, rightly in our view, issued a series of papers detailing what the impact will be for businesses in such a scenario. It has also published a 'partnership' pack which provides a high level guide to customs processes and procedures that are likely to apply in the event of a 'no deal' scenario.

Just as HMRC has made contingency plans, it makes good business sense to anticipate a 'no deal' scenario. Businesses that trade goods with businesses established in other member states need to understand what impact a 'no deal' scenario will have on their own trade.

Partnership Pack

HMRC has published a partnership pack which sets out the impact that a 'no deal' outcome is likely to have on UK businesses in relation to Customs, Excise and Value Added Tax. The pack encourages all businesses to consider the future and to put in place contingency plans in the event of no deal. In particular, the pack encourages businesses to think about:

- what they will need to adapt so as to comply with any new systems, processes and controls;
- assess the impact of the increased demand for customs declarations;
- the impact on recruitment and training of any new staff needed to deal with the new demands

Customs Procedures

In the event of 'no deal' UK businesses will have to apply customs procedures to goods traded with the remaining Member States of the EU. This is not something that has been required since the introduction of the Single Market in 1993. Many businesses have never been required to submit any form of customs declarations but a 'no deal' scenario will mean that declarations will be required. This is not just the case in relation to the export of goods from the UK but will also apply equally to goods sent from the existing Member States to the UK.

Customs declarations require specialist knowledge on such matters as tariff classification, valuation and origin. Any business that trades with Europe will need to be familiar with these rules even if they appoint handling agents to deal with the movements on their behalf. Ultimately, the importer or exporter of the goods is responsible for the correctness of declarations and there are penalties for poor or non-compliance.

Value Added Tax

HMRC has confirmed that, after Brexit, the UK will continue to have a VAT system. In a 'no-deal' scenario, the government's aim is to keep the UK's VAT system and VAT procedures as close as possible to what they are now. However, recognising that the imposition of import VAT on goods arriving from the remaining EU Member States will have a significant and detrimental impact on importer's cash flow, HMRC has announced that it intends to introduce a system of postponed accounting where instead of paying import VAT at the border and then reclaiming, UK businesses will be entitled to 'self' account for import VAT through the VAT return.

In addition, HMRC has announced that, if there is 'no deal', Low Value Consignment Relief is to disappear for parcels arriving from the EU. This means that all parcels arriving in the UK will be liable for VAT (unless specifically relieved in the UK (e.g. children's clothing or food)

Specifics

The partnership pack sets out more specific details for businesses in various sectors in relation to the impact of a 'no deal' outcome.

In particular, the pack focuses on the specific impact for:

- businesses involved in imports from the EU
- businesses involved with exports to the EU
- businesses involved with both import and export with both the EU and the rest of the world
- businesses just involved with imports and exports to non-EU countries
- customs agents
- haulage businesses / freight forwarders
- ferry or channel tunnel operators moving goods between the UK and the EU
- express courier industry and postal services
- businesses supplying services to the EU
- tour operators
- ports and airports
- customs warehouses and temporary storage operators and
- businesses selling duty-suspended excise goods including alcohol, tobacco and fuel

Businesses importing and exporting from and to the EU after Brexit will follow customs procedures that apply currently to trade with the rest of the world. This means that customs entries will be required and customs controls will apply. Affected businesses will need to register for a UK Economic Operator Registration Identification (EORI) and will also need to ensure that they review the INCOTERMS terms of trade. It will be necessary to classify the goods in question using the customs tariff and to ensure that customs entries reflect the correct customs value. These are both specialised areas that should be handled by experienced personnel. Declaring an incorrect classification or an incorrect value for customs purposes could lead to significant over or underpayments of customs duty and could also lead to protracted enquiries by HMRC.

Businesses that currently purchase goods from other Member States will be required to import those goods after Brexit. If the customs duty payable is likely to be significant, businesses may wish to consider the implementation of one or more customs procedures such as warehousing or inward processing relief.

Customs agents are likely to see a massive increase in demand for their brokerage services after Brexit and should consider now whether they will be able to meet this extra demand. Similarly, businesses involved with the movement of freight will face a much greater burden than is currently the case as declarations for all EU movements of freight will be required as well as additional safety and security declarations.

In this internet age, the increase in parcel traffic is exponential year on year. Parcel carriers and couriers will be required to lodge thousands more customs entries than is currently the case and will need to 'gear-up' their systems and controls to cope with this increased demand.

Businesses involved with the supply of digital services to consumers in current Member States will no longer be able to use the EU - MOSS system if there is 'no deal'. Affected business will need to register for the Non-union MOSS system or, alternatively, register for VAT in the Member State where the customer resides. Similarly, businesses that currently submit claims for VAT paid within the EU will be required to use the existing claims process for non-EU established businesses.

Ports and airports that currently handle freight with Europe will also need to gear-up their systems to cope with the huge increase in customs entries and customs clearances through their systems.

Feedback and Support

HMRC is to be commended for its proactive approach. Whilst the government is still of the view that a deal will be agreed between the UK and the EU, it is right that it should anticipate and have contingency plans for a 'no deal' scenario. HMRC has invited all businesses to provide feedback on a 'no deal' outcome so that, where possible, it can provide support. Businesses that require further clarification, information, guidance or support can contact HMRC directly on euexit.communications@hmrc.gsi.gov.uk.

Further information

Alternatively, please feel free to get in touch with your usual Grant Thornton contact if you would like further information.

Karen Robb
VAT Partner
T 020 7728 2556
E karen.robb@uk.gt.com

Vinny McCullagh
VAT Partner
T +44 (0)20 7383 5100
E vinny.mccullagh@uk.gt.com