



Brexit Action Assessment

Businesses operating in the UK and Europe have been left wondering what's next after the UK has left the EU. Use our checklist to review how Brexit may impact your business and [contact us](#) to speak with an advisor who can guide you through assessing the impact of Brexit on your business.

Human Resources

Topic	Action	Reason for Action	
HR Data	Gather up-to-date HR data for all employees .	It's essential to understand your employment demographic and nationality mix to determine what immigration challenges your business may face post-Brexit and help shape resourcing strategy for future hires.	
Compliance Audit of Current Workforce	Review "Right to Work" documentation to ensure that all checks are in place for existing hires and the onboarding of new hires.	UK citizens based in EU, and EU citizens based in the UK, may no longer have a right to work across borders and may be subject to new immigration laws that could be implemented. It is essential to have visibility and control of this data.	
Immigration	Review status of existing immigration applications such as visas and work permits.	Immigration applications that are in progress may be affected by new legislation post Brexit.	
	Identify UK nationals working in the EU and European Economic Area (EEA), and identify EU and EEA nationals working in the UK. We are calling these individuals "foreign nationals" or "FNs."	Since immigration rules may change after Brexit, it's important to have this data available so you can quickly comply with any newly introduced legislation.	
	Determine how long the FN employees referenced above have been in their respective host countries.	The time spent in a particular country will likely determine whether your employees can remain living there. For example, in the UK, it will affect whether your employees can apply for Settled or Pre-Settled Status under the EU Settlement Scheme. It may also determine certain rights and privileges under any new immigration legislation post-Brexit. Tracking this information will be critical to protecting your workforce and ensuring your compliance.	
	For the above-referenced FN employees, consider the availability of acquiring permanent residence status or citizenship in their respective host countries.	You may be able to avoid future immigration challenges post-Brexit by having FN employees apply for permanent residence or citizenship in their respective host countries.	
	Review your recruiting strategy, including the hiring of non-UK citizens in the UK and the hiring of UK citizens in other EU countries.	Your current recruitment strategy may need to be adjusted in light of immigration laws that may change after Brexit. Further, if you are recruiting employees from other European countries, the ending of Freedom of Movement after an initial transitional period may impact your recruitment.	
Employment Contracts	Review your existing contracts and contract templates.	Whilst current UK employment legislation will apply post Brexit, various UK employment contract clauses may be affected after Brexit and, in particular, leaving the EU will give the UK the opportunity to change or relax employment laws in due course.	
	Review holiday pay entitlements, policies and practices.	After Brexit, variable compensation rules may change with respect to holiday pay entitlement.	

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Social Media Policies	Review, or if necessary implement, social media policies and communicate them to your employees to protect your company's reputation.	Brexit is an emotional topic, and strong personal views have been shared openly on social media. This can be a problem for employers where employees have social connections to colleagues and work-related contacts with different opinions.
Employment Handbooks	Review existing HR policies and communicate them to employees to reduce the risk of bullying and harassment and to promote equality and inclusion.	Brexit is a contentious subject that has a high potential to divide individuals in your workforce. Sound, well-communicated policies can mitigate this risk.
Benefits Policies	Remind your employees of available benefits such as employee assistance programs or stress management courses.	Clear communications about benefits options may increase employee engagement in a time of Brexit-related uncertainty.
Disciplinary and Grievance Training	Introduce or review and revise training to ensure your managers are well-equipped to cope with employee-relations matters.	Given Brexit, related worker anxiety, grievances and other employee-relations issues will likely increase.
Communications	Regularly inform your employees of your business strategy and direction.	As a result of Brexit, many UK- and EU-based employees may be nervous about their employment. Consistent, positive and regular communication from your leadership team will promote employee engagement.
	Practical Support	Offer practical support and resources to employees, for example hosting workshops put on by immigration experts to provide up to date information. The UK government's EU Settlement Scheme toolkit provides factsheets, posters and videos for employers to raise awareness amongst their staff.

Legal

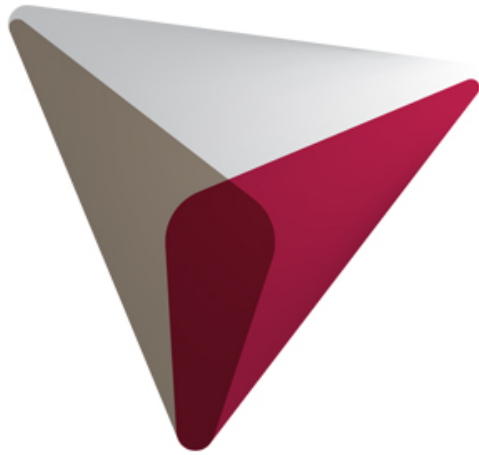
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Data Protection	Ensure compliance with the General Data Protection Regulation and UK Data Protection Act 2018.	Compliance with the GDPR is critical in light of prominent cases involving Google, Facebook and others. The GDPR applies to any businesses that provide goods or services to EU data subjects, even if they are not established in the EU. The UK has mirrored the GDPR via the Data Protection Act 2018, replacing references to the EU with references to the UK.
	Review data transfer compliance.	New compliance measures may need to be put in place for personal data transfers from the EU to the UK and from the UK to the rest of the world. Update your data maps to identify transfers of data effected by Brexit and consider what additional compliance is required.
	Review requirement to appoint a GDPR representative	Article 27 of the GDPR requires certain controllers and processors not established in the EU to appoint a representative in the EU. If your establishment in the EU was previously a UK establishment, consider the need to appoint a representative in the EU. Similarly, if you have no establishment in the UK, consider the need to appoint a UK representative.

Topic	Action	Reason for Action
Territory Clauses	Review your definition of "territory" in key contracts.	Since the UK will no longer be a member of the EU, your definition of "territory" should be reviewed and may need to change in your contracts.
Jurisdiction	Consider including an arbitration clause in contracts so that disputes are resolved through an arbitrator rather than through a national court process.	An arbitration clause may help you avoid court involvement in potentially inconvenient or unfavorable jurisdictions and is less likely to experience any enforcement issues.
Contract Management	Maintain a list of existing contracts with customers and suppliers to track expiration dates and to understand how Brexit might affect certain clauses. You may have to change contract language and renegotiate some terms.	Know when your contracts are up for renewal and any contracts that are in force during the negotiation of a trade deal between the UK and EU. These may be required to be renegotiated to lower your risks and/or comply with new laws.
New Contracts	Consider the appropriate duration of any new contracts, including shorter term contract durations that will allow both parties to mutually adjust terms; also consider break clauses or pricing adjustments to account for currency exchange fluctuations or trade deals that may affect tariffs.	Since we are in a period of uncertainty, shorter contract terms and flexible clauses can help you mitigate risks until Brexit's full implications become clearer following the conclusion of the transition period.
Force Majeure Clauses	Consider the applicability of a force majeure clause or a similar clause such as a hardship clause.	While Brexit itself may not constitute a force majeure, since it is unlikely to prevent a party from performing its contractual obligations, Brexit-related changes (such as the imposition of quotas or tariffs via new international trade agreements) may be grounds for invoking a force majeure clause.
Pricing Clauses	Consider incorporating flexible contract language to allow for more frequent pricing reviews, and consider incorporating certain trigger events that may justify pricing changes.	Contract prices may need to be adjusted to account for revised costs of labor, exchange rates, business premises, import tariffs etc. after Brexit.
Import and Export Costs	Review the apportionment of your import and export costs, the assumed risks of these costs and the potential for further changes after the conclusion of the transition period.	Since the UK will no longer be a part of the EU, the costs of importing and exporting goods between entities will change, subject to new legislation. The extent of that change cannot be quantified until a trade deal is made or the transition period ends.

Tax and General Business

Topic	Action	Reason for Action
Withholding tax	Overlay your current EU intra-group & third party supply chains with the current withholding tax provisions, and potential withholding tax implications following Brexit when the UK is no longer a member of the EU.	At present, UK taxpayers benefit from the EU WHT concessions – aimed at ensuring a level playing field between member states. While the UK will still have its double tax treaties in place, UK taxpayers may likely not be able to benefit from the EU WHT concessions.
Grants	If your business benefits from EU-based grants, consider how grant funding might be affected by Brexit.	New laws after Brexit may affect the conditions of the grant, such as those related to data protection, cross-border cash transfers, immigration and more.

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Hedging	Review provisions for natural hedging or actions that could be taken to hedge currency. Consider commercial imperatives, the potential tax adjustments and the deferred tax assets/liabilities arising from hedging arrangements.	Brexit uncertainty has impacted exchange rates, so it is critical for businesses to consistently review their hedging strategies.	
Indirect Tax	Review any current VAT structures involving the UK to assess what changes may be necessary in light of Brexit, such as changes related to VAT recovery procedures, distance selling, MOSS, triangulation, non-resident VAT registrations, requirements for fiscal representatives in the EU, the use and enjoyment rules etc. In general, VAT rules for any cross-border transactions to and from the UK should be reviewed, e.g. supplies of goods in the EU and EORI requirements.	The UK's current VAT system reflects existing EU VAT legislation. And at this point, there is no expectation that the current UK VAT system will alter to any significant degree especially in the short to medium term. The UK entered a transition period until 31 December 2020. During that period, all VAT rules will remain unchanged. However, during this period it is critical that businesses should take action and prepare for the upcoming changes.	
	If you are considering the UK as the entry point into the EU for VAT compliance purposes, consider alternative options.	The VAT effect of Brexit will particularly impact the movement of goods into and out of the UK rather than domestic transactions. The UK would in effect no longer be within the customs union of the EU and movements of goods between the UK and the rest of the EU will be subject to import VAT and to some degree customs (tariff) duties. Any business shipping goods from the UK to Northern Ireland (or indeed receiving such goods in NI) will also be required to apply the principles of import and export.	
Supply Chain	Examine the structure of your supply chain and the flow of goods within it to identify elements that could be subject to customs controls that are not applied in the EU single market. Particular items to consider include potential changes to UK VAT legislation, location of inventory, current incoterms, status of customer (business or consumer) etc. Attention to electronically supplied services, pricing structures, the effects of customs controls on your ability to fulfil orders quickly, and the possible withholding- tax consequences of Brexit on EU-UK flows.	The UK is expected to begin the negotiation process to enter into trade agreements with the EU and its Member states as soon as it has officially exited the EU.	
Tax Concessions	Review current IP assets, innovation projects and R&D activities, specifically those within the EU.	The UK may be able to offer better tax incentives (e.g., patent box regimes and R&D concessions) after Brexit, since it will be outside the confines of the EU's anti-State Aid rules.	
Transfer Pricing (TP)	Review your transfer pricing position and document intra-group arrangements involving both the UK and any other country (not just EU member states).	There is the potential for the UK to offer more beneficial advanced pricing arrangements after Brexit, when it will operate outside EU State Aid rules.	



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