

Brexit and the **opportunities** open to you in respect of your business contracts: what should you consider now?

Brexit: how can you view our upcoming departure from the European Union as an opportunity to take stock and better position your business in the market?

It seems that at every turn businesses are faced with the potentially devastating effects of a hard Brexit. This note recognises the fact that a hard Brexit (and even a softer Brexit) will impact many businesses in terms of, for example, pricing squeezes, taxation and duties, and liability arising due to delays in delivery of goods or provision of services. However, whilst it remains important for businesses to evaluate the risk and likely outcome of such effects, it is equally important for businesses to seek out opportunity in these uncertain times in order to retain a competitive edge.

Commercial opportunities

Businesses should consider using Brexit as a focus for taking stock and completing a due diligence exercise on contract portfolios. If time does not permit reviewing the full suite of contracts that a business has in place, focus should be on:

- key contracts which are financially and / or reputationally important; and
- contracts that present high levels of exposure to the effects of Brexit, in terms of EU cross-border contracts incorporating physical delivery of goods or imposing responsibility for import or export costs.

By completing a review, businesses will be in a position to identify:

- provisions that they will no longer accept in future contracts, in other words, to create a checklist of 'do not's' to assist employees with future contract negotiation processes;
- provisions which may have some flexibility in terms of the businesses being able to shift responsibility or risk to the co-contracting party – for example, does the business have any discretionary rights or obligations;
- whether the contract allows for the set-off of liabilities; and
- the rights that the business has to vary the terms of contracts, or, how, and under what terms, can the business exit the relationship by terminating the contract.

In turn, businesses will be able to evaluate the legal position of particular contracts as against the business' commercial objectives and look to take advantage of the situation.

To discuss these issues and for concise legal advice, please contact:



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Other notes in this series are:

- Brexit and your **existing** business contracts: Being alert to suppliers seeking to avoid their contractual obligations
- Brexit and the **financial implications** for your business: What action should you consider to reduce your cash flow burden?
- Brexit and your **existing** business contracts: what should you consider now?
- Brexit and your business **operational issues**: what should you consider now?
- Brexit and your **future** business contracts: what should you consider now?

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