Bird & Bird
Brexit & Your Business

Foreword

Some of the immediate challenges for businesses will arise from the impact of Brexit on the free movement of goods, services and workers and a number of areas covered by the single market, including the protection of IP rights. Forward planning is, therefore, key.

Our Brexit resources include over 30 practice group and sector briefings, practical tools for businesses and various videos. These can be accessed via our website at twobirds.com.

Our team of experts can offer commercially-inspired legal advice to keep your business ahead of the curve. Please do get in touch with one of our team below:

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Bird & Bird
Brexit: At A Glance

Insight from over

30

practice and sector groups

Advising on:

- employment
- immigration
- data protection
- intellectual property
- tax
- trade
- disputes
- competition

1,200

lawyers across the globe

48 lawyers in the Brexit Interest Group

28 offices in **19** countries

to support our clients' global operations

Your Brexit Tools

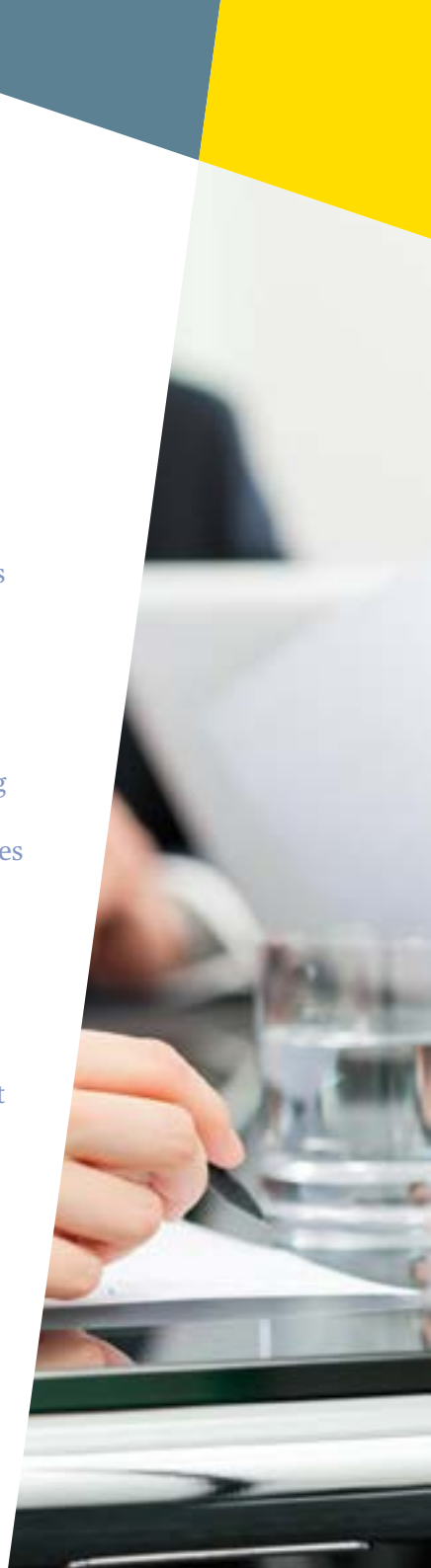
Bird & Bird has a range of tools to help your business prepare for the commercial impact of Brexit.

EU Legislation Tracker
Our EU Legislation Tracker highlights key Regulations and Directives scheduled to take effect or to be implemented by EU Member States in the lead up to the UK's departure from the EU, and outlines how Brexit may impact their implementation in the UK.

Commercial Drafting Checklist
Entering into new commercial agreements during periods of economic or political uncertainty can give rise to unique challenges. As the UK negotiates its exit from the EU, our Commercial Drafting Checklist highlights Brexit-related issues for businesses to consider when contracting during this period.

Brexit Briefings
To find out more about the ramifications of Brexit on a particular sector or area of law please refer to our range of Brexit Briefings on twobirds.com.

EU Jargon Buster
Great Repeal Bill, passporting, EFTA, WTO - consult our EU Jargon Buster for simple explanations that help you get to the heart of the issues in the Brexit debate.



Brexit Checklist

1. Contracts

Audit your existing commercial contracts, particularly those involving entities within the EU, and assess the effect that Brexit may have on your rights and obligations under these agreements. Points to consider include the commercial impact of:

- increased trade barriers
- currency fluctuations
- changes to the enforceability of IP rights (including trade mark rights)
- changes to rights to which are licensed on a territorial basis

2. People

Audit your workforce as soon as possible - in the UK and in Europe - to identify how employees who are working/based outside of their country of origin may be impacted by post-Brexit immigration regimes. Ensuring you have up-to-date and accurate intelligence regarding your workforce is important.

3. IP

Identify which of your business' rights are likely to be affected by a change in regime and may need further application/registration in order to achieve maximum protection over that right. We recommend securing UK trade mark and design right protection sooner rather than later in case no transitional arrangements are agreed; failure to do this could mean that you do not have registered rights in the UK post Brexit.

Consider the impact of the UPC on your patent portfolio; if, as seems likely, the UK will find a way to being part of UPC, then steps may be taken to opt out of the system if commercially desirable.

Give particular thought to the IP provisions in commercial agreements - does the definition of "territory" give you the security you need post-Brexit? A reference to "the EU" may mean that UK rights are lost on Brexit.

4. Data Protection

UK organisations are likely to face a data protection and cyber security law landscape heavily influenced by EU laws for the foreseeable future, and that includes the General Data Protection Regulation (2016/679) ('GDPR'). Businesses should continue to operate assuming that they will be subject to EU laws on data protection, and work to a clear plan, counting down until implementation of the GDPR on 25th May 2018.

5. Tax

Multinational companies should review their international strategies to determine whether, and to what extent, they use UK group companies as a gateway to the EU. They can then use the two-year Brexit notice period to devise firm contingency plans based on the emerging shape of the UK's subsequent relationship with the EU.

For sector specific advice on the impact Brexit will have on your industry, contact a member of our Brexit team.

Brexit Checklist

6. Deals
Consider territorial provisions in contracts and whether the operation of the contract is affected by the UK leaving the EU. Check whether Brexit gives rise to any right of termination or variation of any contract.

7. Competition
Companies operating in the UK and the EU should consider potential exposure to parallel investigations by the European Commission and UK Competition and Markets Authority (CMA) and the need to safeguard their position under both the UK and EU regimes. They should re-assess territorial restrictions in agreements, as between the UK and the EU, under the anti-trust rules as from Brexit. If you are planning a large-scale merger or acquisition, consider whether it will be subject to merger control scrutiny by both the UK CMA and the European Commission, as the Commission will no longer be a "one stop shop" for large mergers affecting the UK, as from Brexit.

8. Trade
Consider what your trading position would be under the WTO rules if the UK leaves the EU without a new UK-EU relationship agreement and without a transitional agreement in place. Map out the key priorities for your sector for the UK's negotiations of a new relationship agreement with the EU and of new commitments with the WTO, and consider how you can influence these.

9. Disputes
If negotiating contracts, think carefully about your dispute resolution, governing law and jurisdiction clauses - ensure they are clear on which courts have jurisdiction and which law would govern the contract if a dispute arises. If you have a court judgment which needs to be enforced in another EU state, take steps to enforce it as soon as you can.

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