TIME TO PACK FOR THE JOURNEY

With EU negotiations due to start in early 2017, what can SMEs do in the meantime to make sure they are prepared for Brexit?

Dramatic headlines that fixated on a bleak future for Britain were an inevitable consequence of the nation plumping for Brexit on 23 June. Sterling briefly slumped, house prices threatened to stagnate, and the Bank of England base rate was reduced to 0.25%. But life has also gone on and businesses have continued to trade despite the dire warnings.

On 31 August when Theresa May's new cabinet met at Chequers, ministers agreed there was a "vital need to increase productivity and the importance of doing more to foster economic growth". In early August, the new prime minister nailed her colours to the mast when she invited organisations including the manufacturers association EEF, The British Chambers of Commerce and the Federation of Small Businesses (FSB) to a roundtable on SMEs.

As the new government starts to get to grips with the nature of our relationship with the EU, we consider the areas of law that may change.

ASSESS STAFFING LEVELS

With the government unlikely to activate Article 50 until at least the new year, Britain is more than two years from breakaway – so all businesses have time to plan. But one of the most difficult elements for businesses to handle in the run-up to negotiations is uncertainty, especially around employment and the migration status of EU nationals.

An Institute of Directors survey post-referendum found a quarter of directors were planning a recruitment freeze. This coincided with a July slump in City job vacancies of 27% on the previous year. An IHS Markit survey of 400 recruitment firms said permanent hires were down (38% found roles for fewer people), and anecdotally there have been signs of a short-term hiring mentality taking hold.

While the implications of Brexit on employment will cut across all sectors – big banks such as Lloyds Banking Group and Santander have formally announced their intention to support the 5% of staff who are EU nationals – any potential changes could affect SME output significantly, especially in low-skilled/low-paid areas of construction, food production, manufacturing, hospitality and social care where many staff are drawn from overseas.

All European Economic Area citizens presently have the right to freedom of work and movement and talks are likely to focus on the the terms of the tariff-free deal that the UK can gain. A skills-based system requiring sponsorship from employers (like the system used to vet non-EU applicants) could be considered, although Theresa May is not keen. It is little wonder that since the referendum KPMG has received triple the usual number of enquiries about immigration law.

In these circumstances, says legal firm Shoosmiths: "If you employ a number of EU workers, you will want to consider the potential impact on your business of having to replace those workers. If they are skilled workers, you may want to consider an application for a sponsor licence to enable them to continue to work for you." They have also created an EU Referendum hub webpage at tinyurl.com/FM-Shoo

Shoosmiths adds: "Under current EU law, EU citizens have the right of permanent residence in the UK once they have been living and working in the UK for at least five years. EU citizens could also consider applying for UK citizenship under the naturalisation rules once they have held a permanent residence card for at least a year." Many have already realised this. In August the Home Office reported a 14% increase in UK passport applications from EU member nationals.

EMPLOYMENT LAWS

Jane Crosby, commercial litigation and employment lawyer at Hart Brown, says issues such as holiday allowance could be subject to change: "The allowance UK-based workers enjoy at the moment is a result of the EU Working Time Directive, which sets out exactly how many days of holiday someone is entitled to based on their contract of employment.

"The main changes are likely to be on how holiday pay is calculated and rules over opting out of the 48-hour working week (tinyurl.com/GOV-MaxHours)."

Crosby adds: "Many of the beneficial employment regulations, for employee and employer, were brought about by UK

KEEP THE INVESTORS HAPPY

Rachel Maguire has a five-point post-Brexit investor relations action plan

Investors hate uncertainty, so astute CFOs should be aiming to create some certainty while EU relationships are redefined.

Here are some best practice examples for investor relations:

CLARITY: A cool head and sustained communication keep markets on side.
Westminster Group finds the positive: "The UK's decision to leave the EU will have little material effect. The company's business and major value creation opportunities are predominantly focused on high growth and emerging markets… and the company therefore expects that any reduction in the value of sterling will have a positive impact on sterling reported results."

CONSISTENCY: Help stability and reassure investors that it still makes sense to hold your stock.
Symphony Environmental Technologies' buoys stakeholders: "Symphony's products are mainly sold in US dollars, and to a lesser extent in euros, to more than 90 countries around the world. The group is therefore not materially exposed to any changes in the UK or European economies."

CREDIBILITY: Where there is material impact, identify headwinds without conflation.
easyJet's trading statement unpacks the factors, assisting informed decision-making: "The economic and operating environment has been difficult… due to a number of factors including air traffic control strikes and other industrial action, runway closures at London Gatwick and severe weather. More recently, currency volatility as a result of the UK's referendum decision to leave the EU… continues to impact consumer confidence."

COMMITMENT: Review roadshow schedules, reinforce commitment to investors.
PR Newswire: "Shareholder communications build shareholder confidence. Shareholder confidence builds shareholder value."

CONDUIT: Between business and investor.
Continue stakeholder engagement, take feedback, stay alert to what is happening around you. Don't leave it to external commentators to write their own narrative about your value proposition.

Rachel Maguire, investor relations director at Arko Iris, arkoiris.co.uk

governments, not the EU; if and when Article 50 is activated, these would not change."

While most equality laws were in place before the EU membership, Crosby believes it is difficult to imagine the government will "repeal the Equality Act 2010". That said, the rate of compensation people can receive in discrimination claims against employers could face a limit under UK law.

CHECK OVER YOUR CONTRACTS

The UK enjoys existing trade deals via the EU with 50 jurisdictions worldwide, and other important negotiations are taking place, such as the Transatlantic Trade Investment Partnership with the US. Exporters to the EU may be worried about a potential financial consequence should new trade barriers and tariffs be introduced. In light of these arrangements, it is certainly worth looking at any contracts a business has signed that involve supply or purchase of overseas goods and services.

On imports, for example, Shoosmiths says: "Regardless of whether the UK remains within the scope of the contract, the impact of the imposition of import tariffs between the EU and non-EU states, and changes in VAT and other tax structures, may also make the contractual pricing mechanism loss-making or too costly for the party that has to bear the additional costs. Shoosmiths has created a free Brexit checklist for businesses to help them navigate their way through the transition, and it includes a section on contracts (tinyurl.com/FM-ShooPR).

It must not be forgotten that fresh trade deals await as a result of Brexit, opening up new export contracts and opportunities for collaboration. At the G20 summit in China, where he met with Theresa May, Australian prime minister Malcolm Turner said he was hoping for "very strong, very open" trade with Britain once it exits the EU.

EXAMINE FUNDING OPTIONS

SMEs trying to grow in areas of the UK where the economy is weak have benefited from European Development Fund monies, and local enterprise partnerships (LEPs) have concerns over what will happen when this funding dries up.

While thriving businesses may not have needed to draw on LEP funds, they may be concerned about ongoing sustainability. The LEP Network said last month that British taxpayers would pay in the region of £4.5bn a year to plug the post-Brexit funding gap for key EU-backed projects supporting farming, infrastructure and science.

Existing EU research projects currently in receipt of €74.8bn from the Horizon 2020 programme have been secured; and on 13 August the government announced it would pay UK contributions to Horizon 2020 after Brexit on projects that were bid for before the date of exit.

TAX ISSUES

One final area to keep track of is tax, not least VAT and customs duties. While the chance to cut through existing red tape would be welcomed, it remains to be seen how Britain will work around the EU's acquisition and dispatch system, or deal with the prospect of duties added to EU imports from the UK.

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