This is the first edition of a briefing highlighting the key areas that all Directors and Boards ought to consider when reviewing the effect of Brexit on their businesses.

The notes are intended to be a summary of how we anticipate Brexit may affect clients such as yourself over the next few months.

Obviously the negotiations surrounding the UK’s exit from the EU will be protracted: the position is fluid given the inherent uncertainties we face going forward and therefore these briefing notes will be updated as things change.

We have set out below seven areas where we feel that there are short-term or immediate considerations for you to take into account.

1. Financial reporting and corporate governance

The Financial Reporting Council (FRC) has highlighted matters for Boards to consider in preparing half yearly and annual financial reports. They include:

- Clear disclosure of the company’s business model, including a description of the main markets in which the company operates and its value chain. This disclosure should enable readers to assess the company’s exposure arising from the outcome of the referendum.
- Directors must consider the nature and extent of risks and uncertainties as a result of Brexit and the impact on future performance of the business. Boards should explain the steps they are taking to manage these risks.
- Boards should consider whether the vote gives rise to solvency, liquidity or other risks that may threaten the long-term viability of the business. This may include an assessment of material uncertainties that give rise to going concern issues, particularly when there is a material breach of covenants.

2. Treasury management and investment

- Company Boards should consider the effect of currency exchange rates on their income and costs.
- To date, exporters have benefited from a reduced value in sterling that has increased competitiveness abroad. Importers will have suffered from increased costs of imported goods and services.
- Consider hedging and initiate discussions with bankers to identify whether exchange risks can be mitigated.
- Consider holding funds in foreign currencies to make payments to avoid the exchange costs of conversion.
- Review bank facility arrangements in the light of recent reductions in interest rates. Consider the returns on bank deposits and review whether there are alternative investments to improve returns.
- Review the effect on pension fund liabilities and consider funding arrangements, particularly for final salary pension schemes.
- In the light of a potential slow down, consider whether your systems provide readily available, accurate and up to date information on debts due to you and work in progress not yet billed. Do you have formal and robust debt collection systems to ensure clients stick to your agreed credit limits?

3. Trading abroad: contractual arrangements

- Review all existing overseas contracts and consider entering into discussions with customers to renew contracts as necessary. Some consider that it may be difficult in a post-Brexit environment to persuade European customers to enter into medium- and long-term contracts.
- Review your terms of business, and existing (or upcoming) contracts with suppliers, customers, investors and others, which may contain clauses that assume continued membership of the EU. For example, you may have (or be considering appointing) agents or distributors to sell your goods ‘in the EU’. What effect will that clause have following Brexit? Such clauses should be identified, and a view taken on what changes may be required. Do clauses in your contracts, whether expressly or implicitly, allow you or the other party to terminate them when the UK leaves the EU? Is such a clause required?
Bearing in mind the uncertainties around tariffs, import regulations and exchange rates during Brexit it may be worthwhile considering the incorporation of overseas subsidiary operations in other European countries so that customers abroad can deal with you through a locally based company. While the initial supply of goods and services may originate in the UK, any future tariffs or new regulations introduced could be contained internally within the UK-controlled group, while EU customers may have greater confidence to place orders with a subsidiary based in their own country and in a way which should minimise any issues they may have as regards trading with a UK-based concern.

Review compliance with the EU General Data Protection Regulations that come into force in May 2018. It is unlikely that the UK will seek exemption from these requirements – and is likely to enact its own data protection legislation post-Brexit. In the meantime, businesses trading with the EU countries will need to adhere to requirements – otherwise trade will be ‘off the table’.

Review the potential exposure to Brexit of your own key clients and suppliers. Review contingency plans to protect your own supply chain as necessary.

4. Auditing and accounting

We do not expect there to be a material change in the financial reporting or audit regulations in the UK. Significant changes in financial reporting have already been introduced and are to be overseen by the FRC.

5. Taxation

Direct Taxes (Income Tax, Corporation Tax, Capital Gains Tax, Inheritance Tax, National Insurance) are all managed under local Parliamentary control. We do not anticipate any change as a result of Brexit although Corporation Tax rates may well reduce to ensure the UK remains an attractive place to do business. However, we have incorporated a number of EU Tax Directives into UK domestic law including the Parent Subsidiary, Interest and Royalties and Mergers Directives and they will continue in place.

Consider transfer pricing arrangements between overseas subsidiaries and ensure they are robust to withstand scrutiny from tax authorities here and abroad as local governments will be increasingly interested to ensure they are receiving a fair share of a company’s tax costs. Recent changes to the international tax regime have been driven by the OECD, and in particular its Base Erosion Profit Shifting (BEPS) Action Plan, and those changes will be unaffected by the UK leaving the EU.

VAT is however regulated by European legislation and could well alter significantly with Brexit and transactions in both goods and services between the UK and the other 27 EU countries are likely to be the most affected by the UK leaving the EU.

The ICAEW Tax Faculty consider the following changes may be expected when the UK leaves the EU:

- Abolition of Intrastat for movement of goods to and from the UK;
- Abolition of EC Sales Lists for sales from the UK to the remaining EU countries;
- Introduction of import and export rules for supplies between the UK and the remaining EU countries;
- Increase in duty deferment facility to cover import VAT and possibly customs and excise duties relating to imports from EU countries;
- The distance selling thresholds will no longer apply for small value of exports to remaining EU countries;
- Changes to the Mini One Stop Shop – VAT will still need to be charged and accounted for in relation to affected supplies to customers in the remaining EU countries. This may mean registering for the non-Union Mini One Stop Shop scheme in a remaining EU country if HMRC is unable to continue operating a UK scheme;
- Refunds of VAT incurred within the EU may become more difficult, having to rely upon the 13th Directive refund scheme;
- EU VAT law and rulings of the CJEU will cease to have direct effect, with the UK law and courts becoming the ultimate decision maker;
- In theory, VAT rates could change up or down, including items currently subject to VAT at 5% could become zero-rated, although such changes are not currently permitted under the UK VAT Lock legislation; and
- The tour operators’ margin scheme could be changed or abolished.
6. Employment issues

• Review all employment contracts for employees from other European countries and ensure that such employees have the correct visas and work permits for the work they undertake.
• Rights to remain in the UK are thought to be one of the negotiating matters for the government so no immediate threat is apparent for overseas workers currently in the UK.
• In the meantime, the incidence of racial harassment appears to have increased in the wake of the Brexit vote. Have you ensured that you have safeguarded any employees from EU member states (or elsewhere) from harassment, victimisation, or discrimination in your workplace?

7. When times get tough

• While we believe Brexit may also bring opportunities for UK Business, many commentators identify the early signs of a slow down in the economy. Is your business prepared for such an eventuality?
• Consider the following steps:
  • If necessary have you identified where you could make cost savings?
  • Are you focused on maximising the efficiency of your operations?
  • If staff members leave can you re-organise work to other team members, or retain flexibility by considering fixed-term contracts?
  • Cash is king – do you have proper systems of cash flow forecasting and debt collection?
  • Are you monitoring your order book and pipeline of work? Now is the time to be close to your customers.

If you would like to discuss any of these aspects and the implications for your business, please speak with your usual Kreston Reeves contact, or email us via enquiries@krestonreeves.com, or call via +44 (0)330 124 1399.