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Brexit – the end of the beginning

The securing, by the Conservative party, of a big majority in the House of Commons in the December 2019 General Election, made it certain that the UK will leave the EU on 31 January 2020.

It has also prevented an immediate risk of the UK leaving the EU without a withdrawal agreement. The risk of the UK leaving the EU single market and customs union without an alternative trade deal has, however, not gone away, merely been postponed until the end of 2020.

Trustees and sponsors of defined benefit pension schemes should continue to plan for a possible “no trade deal” Brexit.

Background

The General Election in December gave Boris Johnson's government a substantial majority, effectively ending any parliamentary opposition to his approach to Brexit. The UK will formally leave the EU on 31 January under the terms of the Withdrawal Agreement.

We will then enter a transition or implementation period through to 31 December 2020, during which current arrangements will apply to trade between the UK and EU. Businesses will need to prepare for new arrangements to be implemented from 1 January 2021 - even though negotiation of those arrangements has yet to begin.

Trustees and sponsors of defined benefit (DB) pension schemes will need to monitor events through 2020 and think about the effect on current DB scheme assets, future investment strategy and covenant – which in turn may have implications for funding. While the immediate No Deal risk has gone away, it has been replaced by the risk of a no trade deal on 31 December 2020 (unless an extension can be agreed).

Likely 2020 timeline

Date	Event
January 2020	UK Parliament passed legislation implementing the Withdrawal Agreement. Withdrawal Agreement formally signed by EU and UK. European Parliament to approve the Withdrawal Agreement.
31 January 2020	UK formally leaves the EU. UK ceases to participate in EU summits and other decision-making processes. UK MEPs leave the European Parliament; UK judge and Advocate General leave the ECJ.
February 2020	UK enters transition period, remaining in the Single Market and Customs Union until 31 December 2020. EU law continues to apply in the UK, including any new law passed during 2020. European Commission presents a draft mandate for the trade negotiations to member states. This must be signed off by all 27 national parliaments.
March 2020	Negotiations begin on the future relationship.
1 July 2020	Date specified in the Withdrawal Agreement by which any extension to the transition period must be agreed. An extension may be for one or two years, (i.e. to either 31 December 2021 or 31 December 2022). The UK Government is currently saying it will not ask for the transition period to be extended.
Autumn 2020	Any free trade agreement agreed with the EU will require unanimous approval by all 27 EU member states' national parliaments and, in some cases, regional parliaments.
31 December 2020	EU law ceases to apply to the UK. Unless a free trade agreement is agreed with the EU, or an extension has been agreed, tariff-free trade between the UK and EU ceases and the UK's future trade with the EU will be based on World Trade Organisation (WTO) terms.

Framework for the future economic partnership between the EU and the UK

A framework for the future relationship between the EU and the UK was set out in the revised Political Declaration agreed between the two parties in October 2019. The key points of the Economic Partnership envisaged by the Political Declaration are as follows:

Key areas	Likely outcome
Goods	No tariffs or quotas Regulatory cooperation Ambitious customs arrangements Mutual recognition of trusted trader schemes
Services and investment	Mutual market access Framework for voluntary regulatory cooperation Exchange of information Appropriate arrangements on professional qualifications
Financial services	Equivalence assessment by end of June 2020 Regulatory and supervisory cooperation
Digital	Facilitate data flows Fair and equal access to telecommunications networks
Other	Facilitation of capital movements and payments Protection of intellectual property rights Mutual opportunities for public procurement Visa-free travel for short visits Market access for freight
Level playing field provisions	Maintain existing standards applicable at the end of the transition period in the areas of state aid, competition, social and employment standards, environment, climate change and relevant tax matters.

No trade deal risk

Negotiations on the EU side will again be led by Michel Barnier. He, and the new European Commission President, Ursula von der Leyen, pointed out in separate speeches this month that negotiating a comprehensive agreement covering all the points in the Political Declaration will take much longer than 11 months. Meanwhile, the UK Government is committed to not extending the transition period.

Comment

Michel Barnier has indicated that the EU is likely to insist on level playing field provisions on environmental and social standards, state aid and tax as part of any trade deal. Commentators have said that progress on an agreement on fisheries is also likely to be essential. All of which goes against the stated policies of the Johnson government.

As such there remains a risk of trade reverting to basic WTO terms from 1 January 2021, if the transition period is not extended by 1 July, and a free trade agreement is not agreed and ratified by the end of the year.

DB sponsors will, therefore, be monitoring the negotiations closely, and hopefully planning for every eventuality. In turn, given the continued uncertain environment, DB trustees should ask scheme sponsors for their latest plans and consider whether they should seek advice on the implications of potential outcomes on their covenant, investment and funding strategies.

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