

## UK-EU Trade Deal: 6 Key Takeaways for Businesses

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**PRACTICES** Europe, Middle East and Africa, International

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Following intensive negotiations, and against the background of a threat of “no deal” in the middle of a global pandemic, the United Kingdom and the European Union agreed a new Trade and Cooperation Agreement (TCA) on 24 December 2020. This marked an important milestone in the future relationship between the UK and the EU following the UK’s departure from the union in January 2020. The TCA came into effect on 1 January 2021, but is pending formal ratification from the EU Parliament, which is expected by the end of April 2021.

Assuming the TCA is, as expected, ratified by the EU Parliament, the key takeaways for businesses based on the TCA in its present form are as follows:

- 1. Trade in Goods:** Zero tariffs and quotas on trade if goods meet the relevant rules of origin. This means, for instance, that there is a maximum threshold on non-originating material that can be used, and there is a requirement that a specific process is followed on the materials which originate outside the UK or EU.
- 2. Professional services and qualifications:** There is no longer automatic mutual recognition of professional qualifications, which means that engineers, architects and doctors, for instance, will need to have their qualifications recognized in each member state they wish to practice in. However, a framework has been laid out to allow professional bodies to move in the direction of mutual recognition of professional qualifications in the future.
- 3. Business travel:** Short term business visitors will not require a work permit so long as their stay does not exceed 90 days within a six-month period and work is limited to those permitted by the Agreement. Intra-corporate transferees can be granted a stay of three years in the case of a manager or specialist and one year if a trainee. Individuals visiting to set up a business will be able to remain in a member state for up to 90 days within a six-month period.
- 4. Corporate structures:** For businesses looking to operate in either the UK or EU markets, the good news is that there is no requirement for a company to have a specific structure or presence within either market to be permitted to trade, nor is there any requirement for a company to appoint individuals of a certain nationality to the board or in senior management. This, however, is subject to any specific carve outs set out in the annexes to the Agreement.
- 5. Financial services:** The TCA does not cover financial services and there is at this time no decision on so-called “equivalence”, which would allow firms to sell their services into the single market from the City of London. Further discussions between the UK and EU are ongoing to determine the way forward on specific equivalence decisions and a joint declaration has been made to support enhanced cooperation on financial oversight – the aim

is to agree on a memorandum of understanding by March 2021.

- 6. Data protection and data flow:** The UK is no longer obliged to comply with EU standards of data protection, although data will continue to be exchanged in the same way until the earlier of the EU Commission issuing an adequacy decision or 1 May 2021 (which itself will extend to 1 July 2021 unless there is an objection). Consequently, personal data sent to the UK during this period will not be considered a transfer to a third country under EU law.

Haynes Boone will continue to provide regular updates on these important issues. If you have any questions, please contact one of the lawyers listed below.