

Headline Brexit issues for the energy sector

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27 March 2019

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Last Thursday, leaders of the 27 remaining EU countries agreed to give the UK an extension of its departure date from the EU. If the UK Parliament approves the Withdrawal Agreement, the new exit date will be 22 May. If not, the UK will leave the EU on 12 April without a deal. For the energy sector, the difference between these two outcomes is highly significant.

Under the Withdrawal Agreement there will be a 'transition period' until the end of December 2020. This would give the energy sector a period of time to prepare for a separation of the intertwined UK and EU energy markets. On the other hand, having no deal is widely viewed as unfavourable for the sector. There will be no transition period and, as such, market participants will have to implement contingency plans immediately.

| NO-DEAL | |
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| What to be aware of | Further detail |
| New Statutory instruments | <ul style="list-style-type: none">• Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019 (SI 2019/532);• Electricity Network Codes and Guidelines (System Operation and Connection) (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/533);• Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 (SI 2019/531);• Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019 (SI 2019/534); and• Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018 (SI 2018/1286). |
| The government expects consistency of supply | <u>Leaving the EU: implications for UK energy policy inquiry - publications</u> |
| Any rises in gas and electricity costs will be capped and reviewed on a 6 month basis | <u>Domestic Gas and Electricity (Tariff Cap) Act 2018</u> |
| UK energy market participants trading in the EU will need to | <u>Regulation (eu) no 1227/2011 of the European Parliament and of the Council</u> |

re-register with an EU National
Regulatory Authority (NRA)
before the Brexit deadline.

Withdrawal agreement

The Withdrawal Agreement contains very few references to the energy sector. However, during the transition period the regulation applying to the energy sector will continue largely unchanged.

The Withdrawal Agreement does make specific reference to Euratom-related issues (articles 79 to 85) and contains provision for the UK to meet with EU regulatory bodies (Article 128).

Our suggestions for businesses

- Have your pre-existing contracts reviewed to ensure that there is sufficient protection for the business. Areas of focus include: liability provisions, termination and inserting a Brexit clause.
- Identify your current contractual arrangements that go beyond 29 March 2019 and beyond 2020. Identify who is liable for costs associated with additional market friction.
- Consider who will bear the risk of volatile currency. This has been a significant issue since the EU referendum and will continue to affect international contracts once the UK formally departs from the EU.
- Ensure that you have a strong understanding of your international arrangements and how you rely on goods and services from inside and outside the EU.
- Audit your workforce to understand the location and nationality of your employees and contractors and consider implementing strategies to help retain key workers, e.g. under the EU Settlement Scheme.

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Related expertise

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