



# Brexit Briefing: Transport Sector perspective

July 2016





# Introduction

**On 23 June the UK voted to leave the EU.**

**This discussion paper sets out some brief facts and issues regarding the EU decision and highlights some areas of consideration for UK transport companies operating in the Aviation, Logistics & Post, Shipping and Rail & Bus sectors.**

**We also explore how KPMG is helping its clients assess the risks.**

**If you would like to discuss your businesses response to the EU vote and how KPMG may help please speak with your local KPMG contact or one of the contacts listed in this discussion paper.**



Timing, process,  
outcomes  
and implications

# On 23rd June 2016 the UK voted to leave the EU

Based on the 23 June 2016 referendum, a possible timeline is shown below:

Businesses should evaluate what risks and/or opportunities Brexit would present for them and prepare accordingly



## Defining the terms of the UK exit

Determining the nature of the UK's relationship with the EU

## Immediate impacts

Economic uncertainty may be felt immediately following a vote to leave the EU and persist while the precise terms of exit are thrashed out

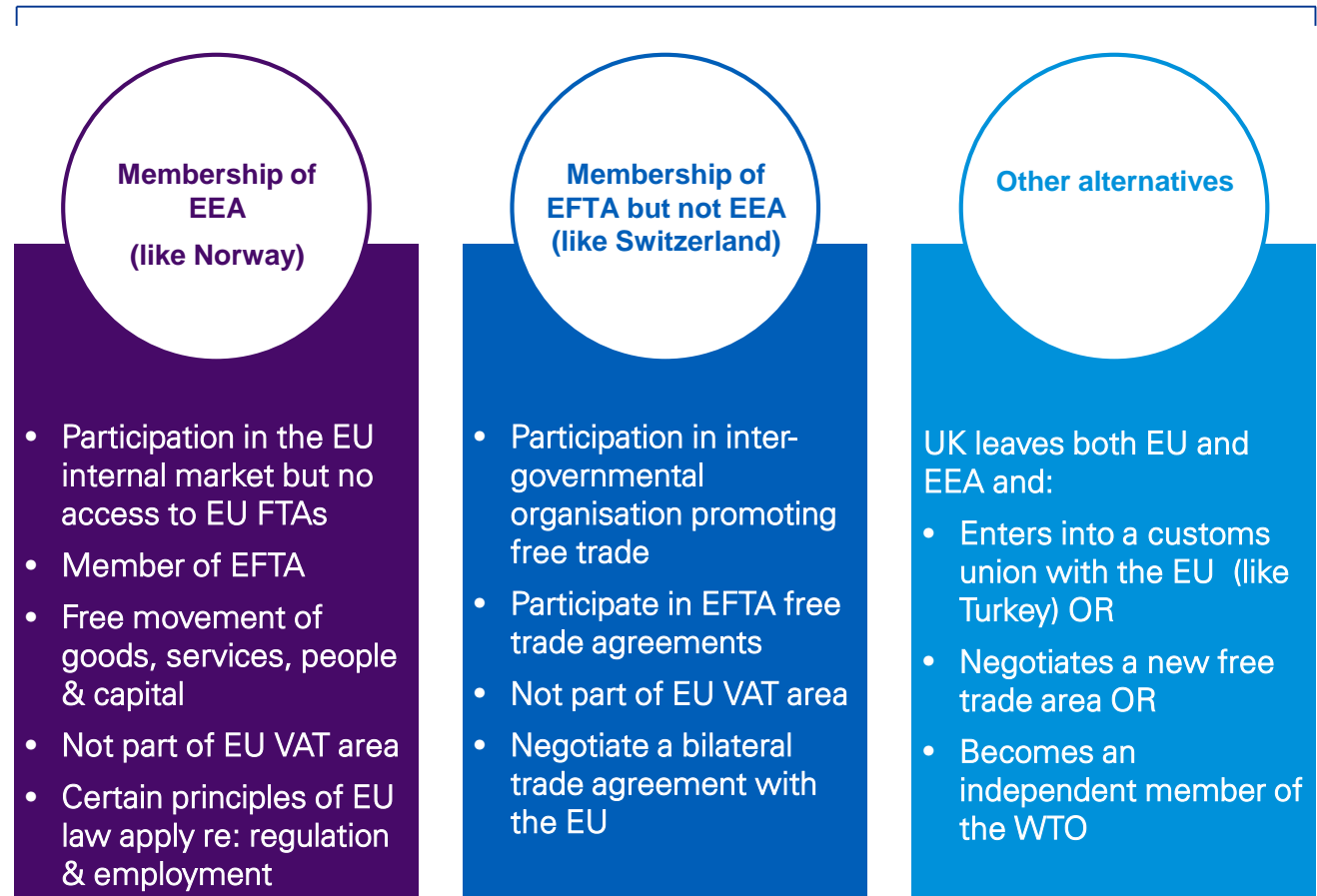
## Implementation of changes

### Each EU regulated sector would face different regulatory conditions

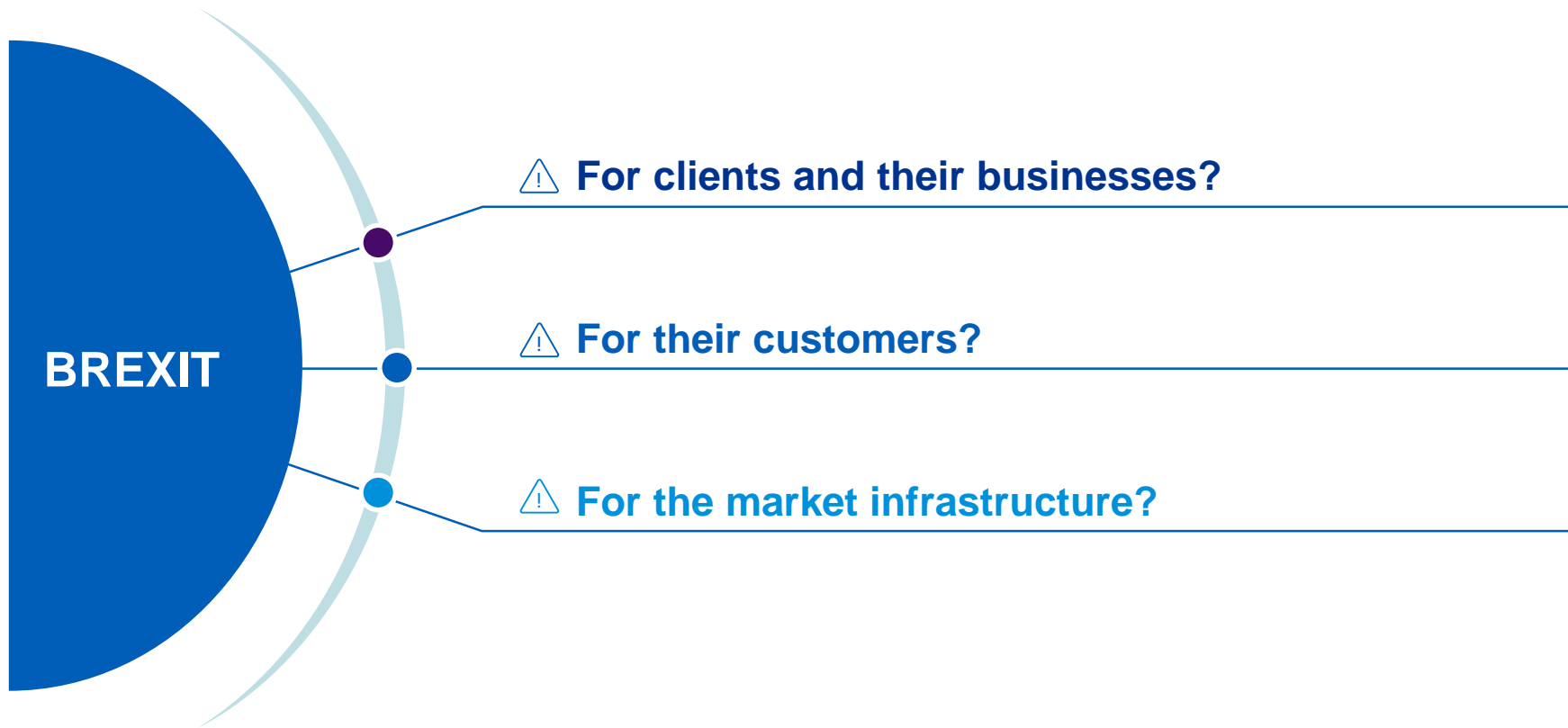
Companies benefiting from EU agreements would see an impact on the conditions applying to their access to the single market

# Possible post referendum scenarios

## Exit



# What are the implications?



# What will change?

**Four fundamental freedoms: Free movement of:**

**People**



**Services**



**Capital**



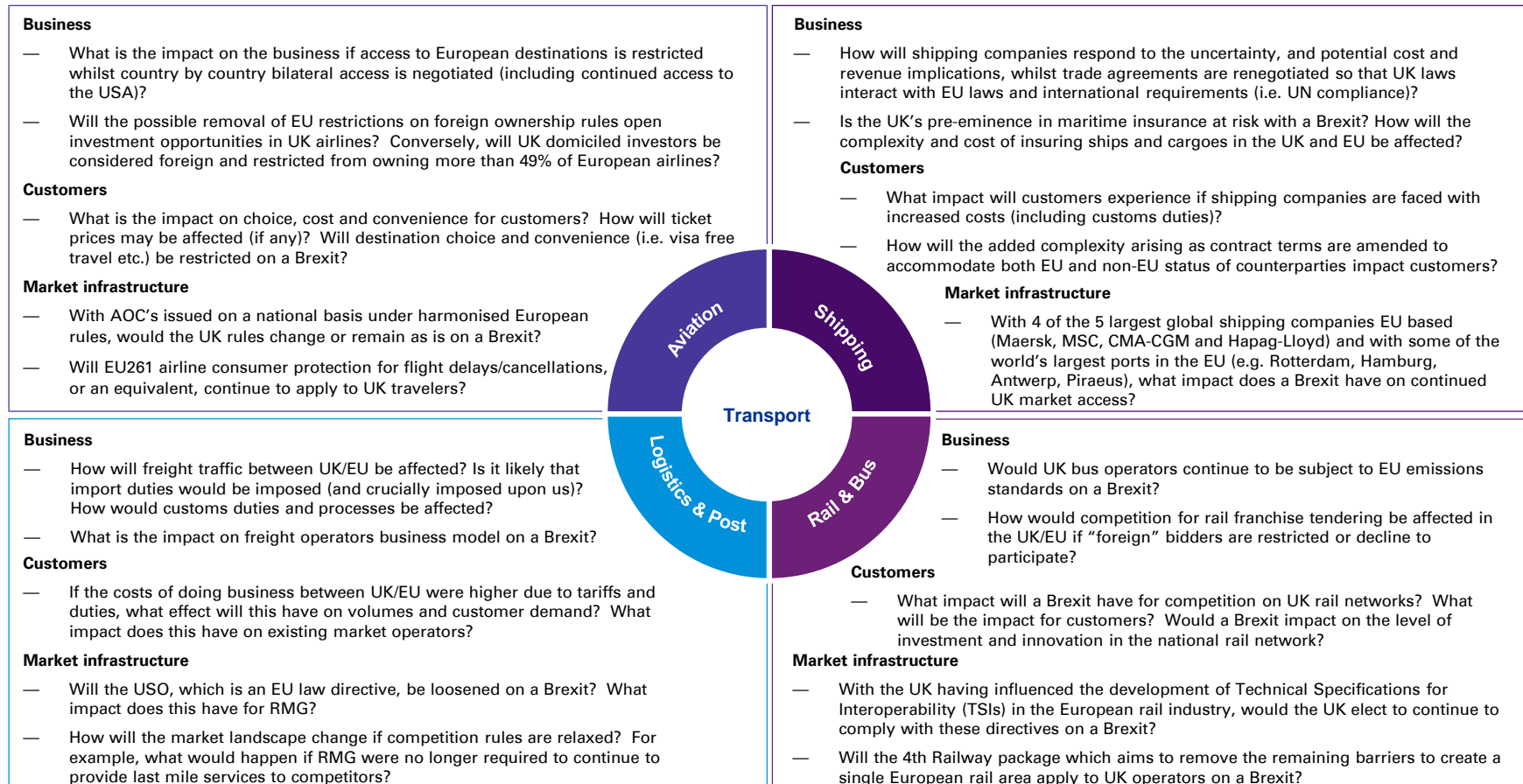
**Goods**



... and many other regulatory, economic, employment law, other legal and tax aspects too

# Implications of a Brexit - sector overview

Transport is one of the EU's most strategic common policies with EU and national regulators having created a complex regulatory environment. Brexit means that UK domiciled transport operators would no longer be required to conform with EU regulation. This slide poses a selection of questions for operators in each sub-sector.





# Implications of a Brexit - cross sector impacts

In addition to the business, customer and market infrastructure questions posed by the Brexit decision, there are additional questions that apply across all sub-sectors on the Transport industry. Whilst this is not intended to be comprehensive it is intended to highlight some key areas for consideration.

## Staffing

- What is the legal status of EU citizens employed by UK based transport operators i.e. at airports, on trains, tubes, airlines etc.?
- Similarly, what is the status of UK citizens employed in EU operations by UK based transport companies?
- What is the impact on UK transport operators if they employ "foreign" workers i.e. visa requirements etc.?

## Ease of intra-EU travel

- What is the impact on intra-EU tourism if cost, choice and convenience dissuade UK travelers?
- What is the impact on airlines, long distance TOCs, and bus/coach operators?
- How will business travel between UK/EU be affected by a Brexit?

## Impact on State Aid rules

- EU regulations focus state aid on addressing market failures and not unfairly influence competition between member states
- Outside of the EU, would UK regulators have the ability, and would they consider, the use of state aid to support the transport sector in its competitiveness if required?

## Public procurements regulations

- How will local authorities and government tender processes for transport provision be impacted by a Brexit?
- Would the UK/EU restrict "foreign" bidding for UK/European rail franchises?
- What would be the impact on UK operators of any changes to public procurement regulations?

# Impact on significant regulations

The UK has on many occasions been a driver for change within the area of European transport regulation. This potentially suggests that Brexit would not have a significant impact on the underlying legislation and approach, although whether the UK would continue to apply the EU standards post Brexit if the industry demanded change is unclear.



# Sector specific EU regulations - Rail & Bus

Summarised below are some of the EU regulations currently governing the sector.

Directive / Regulation	Title	Summary
881/2004	European railway agency	The European Railway Agency is a driving force in the policy for modernising the European railway sector. The Agency's task is to gradually align technical regulations and to establish methods and common safety objectives for the whole of Europe's railway network.
181/2011	Bus and coach passengers' rights	Passengers, including those with a disability or reduced mobility, travelling by bus and coach enjoy the same rights wherever they travel in the EU.
1073/2009	Access to the international market for coach & bus services	The freedom to provide services is a basic principle of the common transport policy and requires that carriers from all EU countries have access to international transport markets without discrimination on grounds of nationality or place of establishment.
2012/34/EU	A single railway network for Europe	The single railway area seeks to modernise Europe's railway transport sector by tackling 3 aspects: (1) the opening of the rail market to competition; (2) improving the interoperability and the safety of national networks; and (3) the development of rail transport infrastructures.
913/2010	A European rail network for competitive freight	Establishment and organisation of international rail corridors for competitive rail freight in order to develop a European rail network for competitive freight.
2004/50/EC	Interoperability of the trans-European rail system	Focuses on establishing common standards for signalling and control systems, telematic systems for freight services, the operation and management of rolling stock intended for international freight, and staff qualifications.

Source: EUR-Lex



# Major EU standards would still need to be met

Whilst a Brexit may allow UK regulators to relax some existing legislation and require new legislation to be implemented, it is likely that major standards would continue to apply and form the basis of UK legislation. Furthermore, it is likely that UK transport operators who wish to continue to ply their trade in the EU would need to comply with EU regulations (i.e. emissions standards for vehicles). The below is a selection of EU standards that may continue to apply.

**European  
emissions  
standards**

**AOC licensing  
requirements**

**USO for postal  
services**

**Ground handling  
directives for  
airport operators**

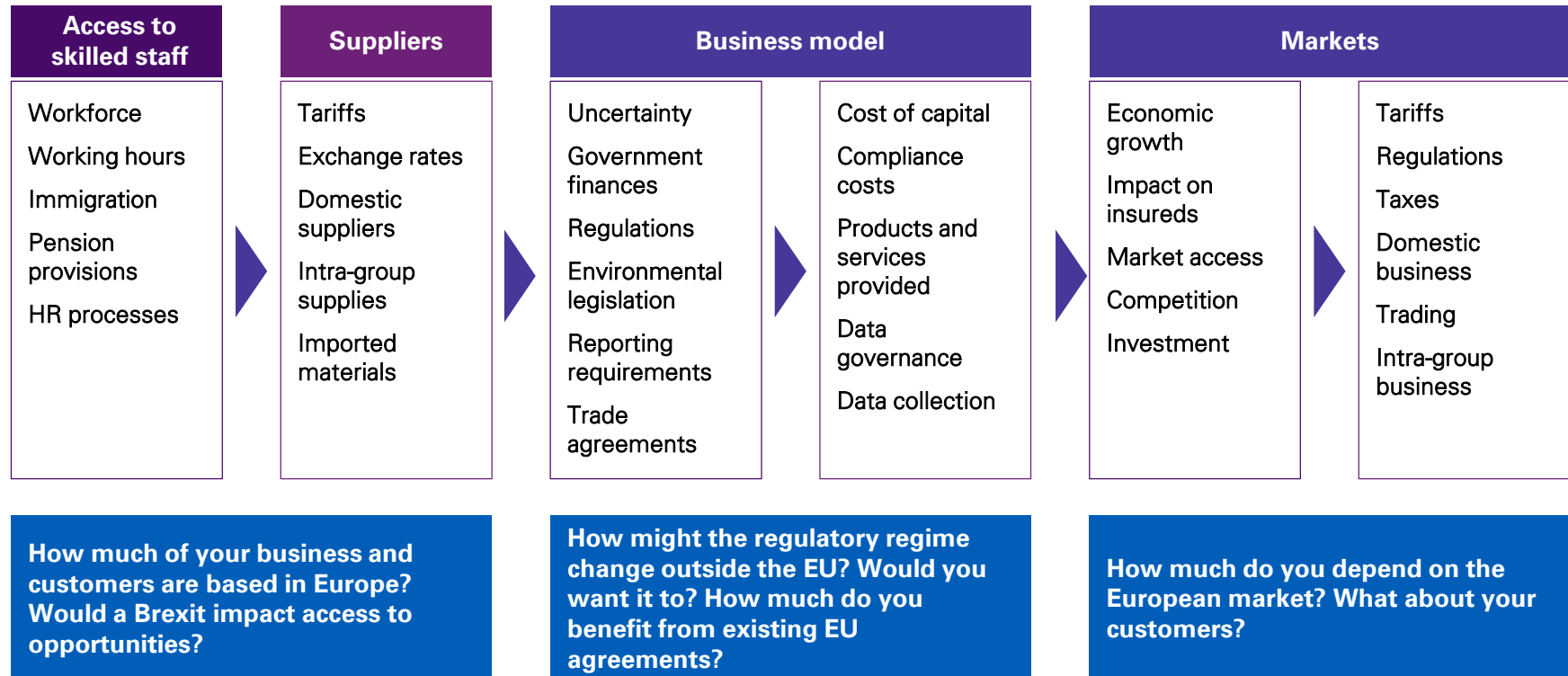
**Airline  
computerised  
reservation  
systems  
directives**

**EU 261 airline  
consumer  
protection**

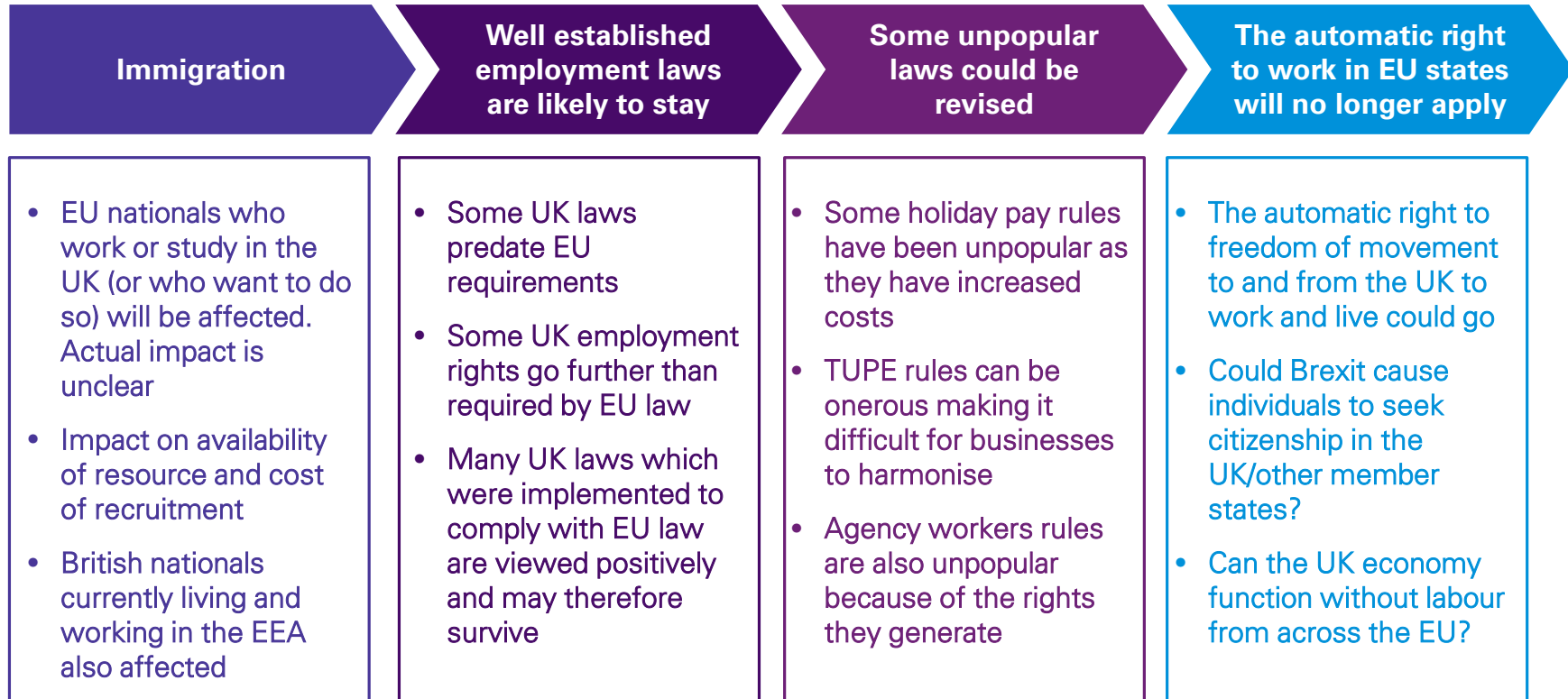
**Shipping specific  
EU overlays to  
IMO  
environmental  
regulations**

**4<sup>th</sup> Railway  
package**

# There will be economic impacts ...



# ... uncertainty for employees and employers ...



# ... and many legal and tax implications

## Legal and data issues

- Transmission of data cross border could be difficult
- Ability to use EU law to challenge ineffective local implementation will be removed (UK Supreme Court becomes ultimate arbiter)
- Cross border mergers where one of the state involved requires EU membership for both states could prove difficult
- Groups would need to revisit all their contracts to ensure that those citing EU law are brought up to date

## Tax considerations

- EU tax directives and initiatives would not need to be preserved e.g. mergers directive providing for tax free cross border mergers
- The EU's recently announced Anti-Tax Avoidance Package may no longer be relevant
- EU law and ECJ decisions are the main source of indirect tax legislation. Where UK law and EU law are currently in conflict, the UK law would now prevail (which could be both positive and negative)
- Tax costs could arise on the structural reorganisations required to deal with other implications for business
- Other costs could also arise such as cost of relocating people, setting up new offices, etc
- UK would have freedom to set own tax rules on transactions or sectors without regard to the EU
- Global tax developments would remain (e.g. OECD's BEPS initiative)
- In the absence of continuing agreements, the cost of goods imported into the UK and exported by the UK could increase as a result of increased duties

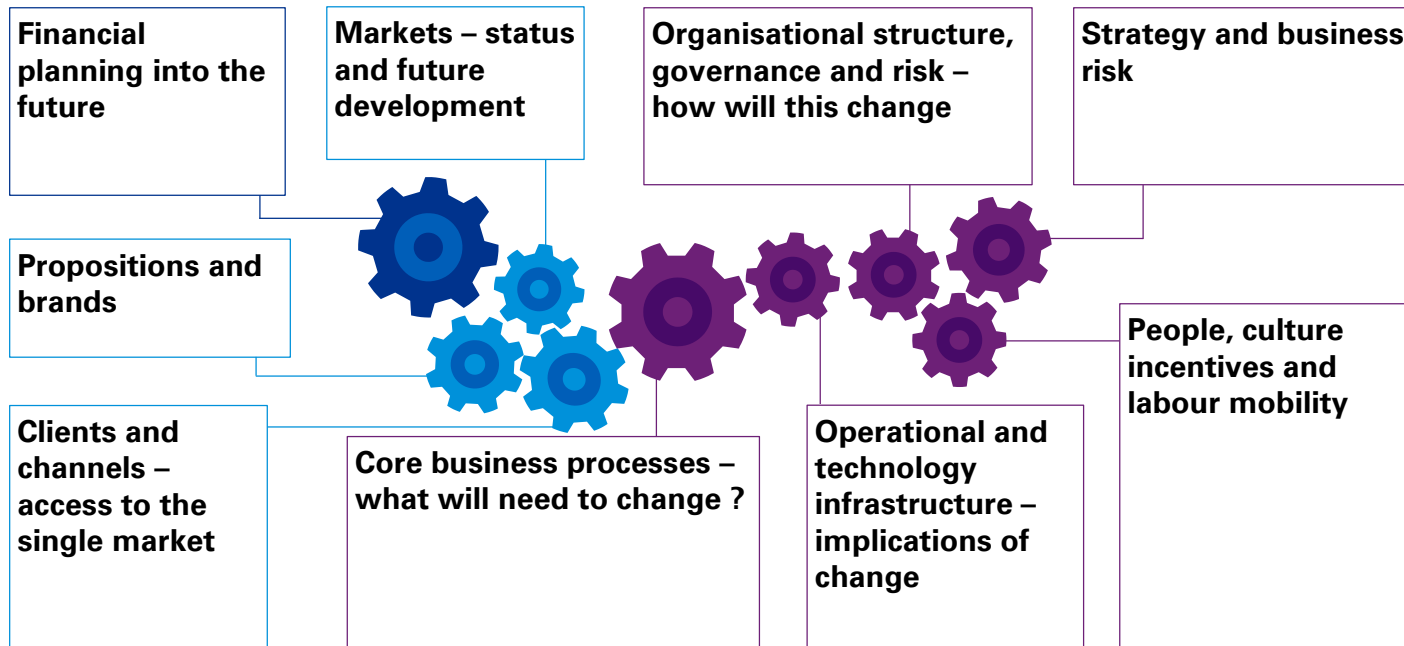


Helping clients  
assess the risks



# BREXIT: Understanding the exposure

No two organisations will have the same exposure. Using KPMG's Nine Levers of Value framework, below are some of the questions business leaders should be asking to consider the impact on their business of a 'leave' vote.



# Preparedness checklist

## Ranking the issues

There is currently much opinion but little fact about what a Brexit would mean in practice. 'OUT' will be the outcome of up to two years of negotiations which determine the nature of the UK's relationship with Europe. Understanding what outcomes are possible and more or less likely is vital to understand the risks. Groups should be ready to engage the Government (either directly or through trade or industry bodies) immediately to preserve any regulations or trade arrangements that are important for the group. Those who move first will always play with advantage.

## Flexible monitoring

The situation is evolving and keeping up to date with development is challenging but necessary. The evolving political scene at home and abroad will affect the outcomes.

## Where are the economic pressure points?

Groups need a clear understanding of their business and **supply chain**. This is key for understanding the impacts, not just of Brexit, but future volatility in the political-economy. Internal pressure points include operations, work force and financing. External pressure points include suppliers, competitors and customers, both domestic and international.

## Where are the regulatory and trade pressure points?

Groups need to have a clear picture of the EU trade agreements and regulations that are crucial to their business, understand how they might change, and comprehend not only the risks but also the opportunities available if those regulations were to change.

## Quantify the impacts

Understand what might change under different 'OUT' outcomes. The decision may influence the strength of the domestic economy, the costs of trade, financial markets, regulations, the labour force and long term development of the European market.

## Prioritise

Rank the severity of the risks and opportunities that the interactions between impacts and pressure points present.

## Plan

To the extent that a business can **influence** the outcomes, either through evidence-based contributions to the political debate or through public statement, they should consider the costs and benefits of doing so, including reputational impacts. **Mitigation** strategies need to be developed for negative outcomes that cannot be avoided, but also to take advantage of opportunities which are presented. Finally, where necessary, companies must **adapt** to the new environment in which they operate.

# Assess the impact - determine the risk areas

		How would the group's ability to supply its markets be affected by a Brexit				How would demand for services be affected by a Brexit				How would the competitive position be affected?		
		The availability and cost of the right labour	The availability and cost of capital	The availability and cost of services	Etc.	Access to customers in the UK	Access to customers in the EU	Access to customers outside the EU	Etc.	Impact on the size of relevant market(s)	Impact on main competitors	Etc.
Impact of a Brexit on the Four Freedoms	The free movement of goods			●	●	●	●	●		●	●	●
	The free movement of services		●	●	●	●	●	●	●	●	●	●
	The free movement of people	●			●	●		●	●	●	●	●
	The free movement of capital		●	●	●	●	●	●	●	●	●	●
Impact on laws, regulations, and terms of trade	Changes in the EU/UK laws affecting the business			●	●	●	●	●		●	●	●
	Changes in the EU/UK regulations affecting the business		●	●	●	●	●	●	●	●	●	●
	Changes in taxation in the UK			●	●	●	●	●		●	●	●
	Changes in taxation in the EU		●	●	●	●	●	●	●	●	●	●
	Changes in the terms of trade between UK and non EU states	●			●	●		●	●	●	●	●
	Changes in taxation on the group outside the EU		●	●	●	●	●	●	●	●	●	●
Economic Impacts	Exchange rate		●	●	●	●	●	●	●	●	●	●
	Interest rates			●	●	●	●	●		●	●	●
	Economic growth		●	●	●	●	●	●	●	●	●	●
	Etc.	●			●	●		●	●	●	●	●



# Your KPMG contacts

## Aviation



James Stamp

Partner

James.Stamp@KPMG.co.uk  
+44 7710 056 098

## Shipping



John Luke

Partner

John.Luke@KPMG.co.uk  
+44 7768 866 225

## Logistics & Post



Justin Zatouroff

Partner

Justin.Zatouroff@KPMG.co.uk  
+44 7802 963 615

## Rail & Bus



David Williams

Partner

David.Williams@KPMG.co.uk  
+44 7970 401 881



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