



Alert n°

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The United Kingdom Parliament prepares for Brexit and adopts post-Brexit Blocking statute in order to replace the existing EU Blocking Statute

Originally scheduled for March 29, 2019, the Brexit was first postponed to April 12 and October 31. This situation implies the participation of the United Kingdom, still a member of the European Union, in the European elections which will take place between 23 and 26 May. This period may be shortened at any time if the British MPs adopt the divorce agreement concluded by Theresa May and Brussels. Which will not be easy since they have already voted against three times: January 15, March 12 and March 29. The assumption of a "no deal" Brexit " as of October 31, therefore, remains to this day the most plausible outcome and companies and administrations continue to prepare for it. Thus, in the delicate field of economic sanctions as well ...

As a reminder, in response to United States ("US") withdrawal from the JCPOA, the European Union ("EU") has proposed on 6 June 2018 to modify the existing Council Regulation (EC) No 2271/96, so-called "Blocking Statute". In an essence, the EU Blocking Regulation aims at countering the unlawful effects of third country extra-territorial sanctions on EU operators.

Following this proposal, the EU adopted Commission Delegated Regulation (EU) 2018/1100, which supplements the EU Blocking Statute and aims to prohibit compliance by EU entities with US sanctions on Iran which have been re-imposed following the US withdrawal from the JCPOA. The new regulation entered into force on 7 August 2018 and it is applicable since in all EU Member States.

In view of the future withdrawal of the United Kingdom ("UK") from the EU, the UK adopted the European Union (Withdrawal) Act 2018, which permits amendments to be made to EU legislation transposed into UK law in order to ensure that the UK's legal system will continue to operate properly if/when the UK withdraws from the EU.

Under this Withdrawal Act, the UK Parliament has recently approved the [draft Protection against the Effects of the Extraterritorial Application of Third Country Legislation \(Amendment\) \(EU Exit\) Regulations 2019](#) ("UK Regulations 2019"), which transposes the EU Blocking Regulation into UK domestic law.

As a consequence, the provisions prohibiting EU persons from complying with the relevant third-country legislation will remain applicable for UK persons after UK's withdrawal from the Union. In addition, courts in the UK will not recognize or allow the enforcement of judgments against UK businesses for fines that they incur in a third country for breaching sanctions with extraterritorial effect. UK businesses can also seek damages through before UK courts should they be negatively impacted by the application of extraterritorial legislation.

Finally, after Brexit, the UK Regulations 2019 will enable the Secretary of State, acting by domestic secondary legislation, to amend the list of third country legislation, compliance with which by UK persons is proscribed, and will permit the Secretary of State to authorize such persons to comply with that legislation. Additionally, the obligation on EU persons affected by trade sanctions legislation to provide information to the European Commission will become an obligation on the part of UK persons to provide information to the Secretary of State. The regulations provide also transitional period for authorizations in favour of UK persons made prior to exit day, which are to be treated as if they were authorizations made by the Secretary of State.

The Government will publish, before the UK leaves the EU, guidance on how the Blocking Regulation will apply after EU exit and how to apply for authorizations.

These UK Regulations 2019 were approved by both House of Commons and House of Lords on 2 April 2019 and will come into effect if the UK leaves the EU without a deal or at end of the end of the transition period subject to any other arrangement.

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