

EU Member States to require new EORI number for UK/North Ireland businesses under no-deal Brexit: German customs update

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Executive summary

The United Kingdom (UK) is expected to leave the European Union (EU). This departure will be accompanied by new trade and customs regulations. In the case of an unregulated hard Brexit (no-deal), trade in goods between the UK and the EU Member States will be governed by the general customs rules for third countries without a transitional period.

This Alert highlights the need for specific businesses to apply for a new Economic Operators' Registration and Identification (EORI) number to avoid increased costs and delays related to the movement of goods into or out of the EU.

Detailed discussion

UK businesses need to apply for a new EU EORI number for EU customs activities

The EORI number is a unique number issued in the EU by the competent authorities and used to identify economic operators by customs authorities.

A no-deal Brexit will terminate all UK EORI numbers within the EU customs systems. Hence, there will be no "conversion" of current UK EORIs for a post-BREXIT situation for UK businesses to continue to use their current customs registration for EU customs formalities.

UK businesses, for which customs formalities in accordance with article 5 sec. 2 of the Uniform Customs Code (UCC)-DA will be carried out in the EU post-BREXIT, must apply for a new EU EORI number in a Member State of their choice, i.e., in the EU Member State where they conduct EU customs business.

Note that according to article 5 of the UCC-DA, there are several customs actions that will require UK operators to hold an EU EORI. Among others, such actions include filing declarations for temporary storage, entry summary declarations, exit summary declarations and transit procedures.

For certain customs actions, UK businesses that will be non-EU established after BREXIT will not be required to hold an EORI. The most common scenario in practice involves UK businesses that conduct regular EU imports which are managed by an EU-established logistic firm and customs service provider. If the UK firm would be indirectly represented upon declaration for release for free circulation by an EU-established customs declarant, based on article 5 UCC-DA, it is anticipated that no EORI would be required for the indirectly represented UK business. However, the following section notes that there is divergent guidance and opinions at some customs offices in Germany.

Divergent opinion by some German customs offices

The “Merkblatt zu Zollanmeldungen, summarischen Anmeldungen und Wiederausfuhrmitteilungen” (Guidance about filing customs declarations, summary declarations and re-export notifications) issued by the German customs administration indicates that an EU EORI would be required (mandatory) for the representative and the represented person in cases of indirect customs representation upon import declaration of goods. This is a common case where UK businesses employ a German customs agent to import customs, clear goods and indirectly represent the UK firm for purposes of customs declaration.

EY has knowledge that in accordance with the guidance, some customs offices consequently take the view that an EORI would be required for indirectly represented non-EU businesses. Hence, it cannot be excluded that e.g., import declarations may not be accepted by some customs offices if the represented party does not hold an EU EORI and respectively has not applied for it yet.

Hence, business should determine with the relevant clearing customs offices if they accept an indirect representative that does not hold an EU EORI.

However, it is not an issue to have an EU EORI as a non-EU established operator since this facilitates identification of the import declarations and simplifies data provision requests to customs authorities.

Impact on businesses

Generally, if no EU EORI is available, this can result in a challenge to filing customs declarations. Supply chain delays may result if customs authorities refuse the customs declaration due to customs operators not holding an EU EORI.

If UK businesses have already applied or will apply for a new EU EORI number for a post-BREXIT situation, these will not be activated and transmitted to the central database in Brussels until Brexit would be completed on 1 November 2019.

The European Commission has also announced that the central system will not be available from 30 October to 3 November 2019.

The German customs authorities announced that applications for a new EU EORI number or changes to existing EORI numbers can only be processed through 28 October 2019 at the latest. Otherwise, the German customs authorities will begin working on EORI applications after 5 November 2019. It is likely and should be considered whether the customs authorities in other EU Member States may follow similar procedures.

What's next?

UK businesses should determine if they perform customs acts that require an EU EORI and if so, whether a new EU EORI application has already been filed. Otherwise, it is urgent to do so to maintain customs capabilities in the case of a no-deal BREXIT.

As noted above, it is recommended to confirm with the relevant import customs offices that those, for example, not request an EORI from an indirectly represented UK operator (post-BREXIT). To mitigate the risk of discussion with customs authorities and delays in clearance, it is also an option to voluntarily apply for a new EU EORI.

The EY Global Trade team has experience in preparing and filing EORI applications to assist businesses prepare for customs in the case of a no-deal BREXIT.

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