

Brexit: Election Roulette?



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Thursday, September 5, 2019

In the early hours of Sept. 5, the UK government conceded that it will not use delaying tactics in the House of Lords to block the passage of the bill designed to avert a "no deal" Brexit. The bill completed its House of Commons stages on Sept. 4, and time has been reserved on Sept. 9 for the House of Commons to consider any Lords' amendments. The House of Commons has then resolved to delay any adjournment up to Sept. 11 until the Speaker has reported Royal Assent.

Immediately after the bill completed its House of Commons stages, the UK Prime Minister Boris Johnson sought, but failed to secure, a motion to authorize an early general election on Oct. 15. Consequently, the final days of the Parliamentary session, up to prorogation on Sept. 11, are likely to be dominated by further government attempts to trigger a general election. Given that the government cannot be sure of obtaining the two-thirds majority of MPs required under the Fixed Term Parliaments Act 2011, it may seek to push through a short bill to override that requirement and to secure an election with a simple majority.

While political commentators salivate over the Parliamentary drama, businesses remain in a difficult position. The headline aim of the emergency legislation is to fend off the risk of a "no deal" Brexit. However, its drafting reflects the careful

compromise required to secure support from opposition parties and "rebel" conservatives. Consequently, it is more accurate to say that the legislation would avert a "no deal" Brexit unless the House of Commons agrees to proceed with that outcome. It specifically provides that if the government has not, by Oct. 19, secured approval for a withdrawal agreement or a motion agreeing to a "no deal" Brexit, then the Prime Minister must seek an Article 50 extension to Jan. 31. In essence, a "no deal" Brexit is blocked unless the House of Commons decides otherwise.

It is clear that the current House of Commons has a majority against a "no deal" outcome. A general election might alter that position – either increasing the majority opposed to a "no deal" Brexit or creating a majority committed to, or at ease with, that outcome. A general election on the proposed date of Oct. 15, two days before the next scheduled EU Council meeting, would, therefore, leave open the possibility of a new government, committed to "no deal" and determined to effect Brexit on Oct. 31, "do or die". If that were the outcome of a general election, then businesses would have only 15 days to prepare for a "no deal" Brexit.

A Scottish Parliament Information Centre [report](#) published on Sept. 2 assesses the likely impact of a "no deal" Brexit and outlines a range of contingency planning measures. The UK government, meanwhile, has launched its £100 million "[Get Ready for Brexit](#)" campaign and website with information for businesses and individuals.

Throughout the week's debates in Parliament many pro-Brexit contributions have included the conviction that the government might yet be able to secure an improved deal, using the prospect of a "no deal" Brexit to extract concessions from the EU. Separately, and from a radically different perspective, Stephen Kinnock MP's amendment to the emergency legislation will bring back to the House of Commons the Withdrawal Agreement and Political Declaration (WA) that was rejected three times under former Prime Minister Theresa May. The theory behind that amendment, which passed by default as the government did not provide tellers for the "no" lobby, seems to be that faced with the continuing risk of a "no deal", the House of Commons might, after all, settle for the existing draft.

Either way, it remains possible that some form of deal might yet be in place before the Oct. 31 "exit day", but equally possible that a newly emboldened government might emerge from a general election with a mandate to "just get on with it". Finally, it is also worth bearing in mind that the emergency legislation would require the Prime Minister to apply for a further Article 50 extension. It would then be for the EU to decide whether a further extension would serve any useful purpose – and that calculation might depend on the complexion of any new House of Commons following a general election. Conviction or exasperation, therefore, leave open several routes to a "no deal" outcome, making the prudent course for business one of continued preparation and resilience planning.

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