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After Brexit: Divergence and the Future of UK Regulatory Policy

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Executive Summary and Recommendations

The UK pursued a sovereignty-first Brexit. Having prioritised regulatory autonomy over market access to the EU and a frictionless border between Great Britain and Northern Ireland, the UK government is now trying to make sense of its newfound freedoms. To date, there have been at least 50 different initiatives across the government looking at changes to EU-derived rules. Yet there has been no single strategy for what divergence really means for the UK, what economic costs it could bring and what new choices it could entail for the future of the union. This policy paper looks at the UK's opportunities for regulatory divergence after Brexit and sets out new choices that the government must consider when deciding upon regulatory change.

Brexit is initiating the biggest change to the UK regulatory regime in a generation. The UK has secured new regulatory powers in numerous areas previously led by the EU; domestic regulators have gained considerable new responsibilities; and the UK is now an independent regulatory actor on an increasingly contested global stage. It is rare for any modern economy to be able to rethink its regulatory policy from the ground up. Departure from the EU single market gives Britain, at least in theory, that opportunity.

Divergence from the EU is, in many ways, an inevitable consequence of leaving the single market. The UK's legislative and regulatory systems now evolve independently from Brussels. But what that means in practice will largely depend on the choices that the government makes in the months and years ahead. It remains to be seen how far the UK will choose to actively diverge from preserved EU rules already on its statute book, and whether it chooses to act to minimise future differences with its biggest trading partner in the interests of the economy and the union.

Divergence will mean different things for different parts of the UK. For Northern Ireland, it will mean new economic friction with the rest of the country. For Scotland and Wales, Brexit has put new choices in the hands of their respective governments, including the option to quietly follow EU rules in areas of devolved competence. That new reality means that any substantive divergence the UK government pursues risks furthering political tensions with devolved governments and creating a new source of tension within the governance of the UK, with ramifications for the future of the union.

There may be good and legitimate reasons for the UK to choose a different regulatory approach from the EU. This could be because in some areas, the UK may have different domestic policy and regulatory needs to the EU, want to seek new ways to enhance its competitiveness, or want to enable regulatory innovation.

Whatever the rationale for change, divergence is never unconstrained nor free. It must be weighed against the wider political and practical realities that the UK is facing: the public support for changing

regulation; its political impacts on the UK's internal market and the future of the union; its economic costs and business incentives; and the legal constraints under which the UK operates on an international plane.

Meaningful divergence lies only in those areas where there is strong rationale for doing things differently, combined with minimal constraints and costs from change. In practice, such opportunities will lie either with fine-tuning aspects of domestic frameworks – in areas such as competition policy or subsidy control – or giving UK regulatory bodies discretion to support innovation and development of new technologies. There may also be aspects of the services sectors where change is desirable to enhance competitiveness. However, in areas with a long legacy of common regulation – such as environmental protection or most manufacturing sectors – there is no benefit in the UK departing from the EU's regulatory model for anything other than an overwhelming reason of self-interest.

There is a case for using Brexit as an opportunity to reflect on whether the UK's regulatory policy as a whole is fit for the future. This is not because Brexit unlocked enormous opportunities to radically depart from the EU's model, but because there are wider pressures on the UK's regulatory system – rapid technological change, structural challenges facing the UK economy and growing global regulatory competition – all of which pose challenges for how regulation can best support the UK's prosperity at home and strategic interests abroad.

So far, the UK government's approach to identifying regulatory opportunities has been piecemeal, politically driven and informed by no overarching strategy. With this approach, the government risks undermining its very own objective, and creating a fragmented and unstable regulatory environment for businesses. We recommend that the government should:

1. **Be strategic about areas in which to pursue regulatory change.** There is no prize in a divergence-as-a-default strategy. The government should use its newfound freedoms wisely and seize the opportunities where divergence is meaningful – areas where the potential benefits are material for competitiveness or regulatory innovation and the constraints are limited. It should proactively seek to minimise pointless and painful divergence – where changes deliver few benefits but raise costs – for the sake of UK prosperity.
2. **Develop a regulatory policy in service of the UK's economic strategy.** There are some opportunities for the UK to tailor some of its EU-derived regulatory frameworks – for example in designing a bespoke subsidy control regime or a competition system for the digital markets – that meet the UK's domestic policy needs. Any such regulatory reform must be guided by wider economic objectives, rather than simply the ability to shake up the system because it is now in the government's gift. The government should ensure that these changes are guided by its longer-term economic strategy.
3. **Undertake a thorough, independent review of the UK's regulatory model.** Before the government makes any substantive changes to its rules, it should commission an independent assessment of the

future of the UK's regulatory policy: how it needs to adapt to the post-Brexit context, how it is suited to handle wider external pressures, and what reforms could make it more fit for the future.

4. **Audit the UK's post-Brexit regulatory governance to prevent divergence by neglect.** Brexit has led to wide-ranging changes to the regulatory powers for UK bodies and raised short-term risks of potential regulatory gaps. The government should commission an independent review of post-Brexit regulatory governance to assess the readiness of UK bodies to assume new responsibilities after leaving the EU.
5. **Monitor the evolution of European single-market legislation and constructively engage with future regulatory changes from the EU.** The future evolution of the EU single market will have profound impacts on the UK's regulatory preferences, the internal market and the relationship with Northern Ireland. In some areas, the UK may wish to voluntarily follow changes in EU law to prevent friction with Northern Ireland. The UK needs a clear strategy for addressing future regulatory changes in EU law.
6. **Create a more balanced approach to managing divergence within the UK internal market.** The new internal-market legislation and the new arrangements to manage regulatory differences between the four nations will sooner or later lead to serious political tensions, threatening to undermine the case for the union. The government should urgently reconsider its approach to managing the UK internal market.
7. **Set clear priorities for the UK as an independent global regulatory actor.** With growing competition between the EU, the US and China in setting new standards, especially in emerging technology sectors, the UK needs to be aware of its market power and its position. The UK could strive to play a role as a regulatory convener between the US and the EU and as a leader in a select few strategic niches where it has global strengths—but only with the right focus and regulatory diplomacy strategy.
8. **Restart and promote active regulatory cooperation with the EU.** Despite many shared interests in cross-border regulatory issues, the recently concluded Trade and Cooperation Agreement (TCA) with the EU contains limited opportunities for maintaining close links on regulation between the two sides and their regulatory bodies. Active exchange of regulatory expertise with the EU is crucial to maintaining the UK's regulatory institutional capacity and should be encouraged by the government.

1. Introduction

The UK pursued a sovereignty-first Brexit. It prioritised future regulatory autonomy over market access to the European Union and a frictionless border between Great Britain and Northern Ireland. Having secured new flexibility in several areas previously regulated by Brussels, the government is now on a mission to define what its much-prized right to diverge means in practice. The real challenge for the government is to think not so much about the opportunities that Brexit unlocks but more about the ways in which Britain's post-Brexit regulatory model needs to adapt to new pressures and long-standing challenges facing the UK's economy.

In leaving the EU, the UK has chosen to exit not only the political union that unites 27 sovereign nations across Europe, but also the world's largest commercial market. The EU's single market is the deepest and richest market in the world, governed by common rules, institutions and legal order, which the UK was instrumental in creating. The UK government's decision to leave the single market has been one of the most consequential policy decisions in modern British history. With it, the government chose to prioritise its ability to set some of its future regulations over market access. What will the UK do with its newfound regulatory freedoms?

Throughout the Brexit negotiations, the Johnson-led government argued that what mattered was the principle of divergence – the ability to set our own laws – not the practical details of what these new freedoms would allow. To suggest that the government lacked concrete ideas was to be accused of missing the bigger point. As David Frost, UK chief Brexit negotiator, said in his Brussels lecture in February 2020, “sovereignty is about the ability to get your own rules right in a way that suits our own conditions.” The dividend of Brexit, in this interpretation, is about restoring the principle rather than making concrete changes. “Looking forward, we are going to have a huge advantage over the EU – the ability to set regulations for new sectors, the new ideas, and new conditions quicker than the EU can, and based on sound science not fear of the future,” said Frost.

Yet for all its past insistence that the policy specifics matter little, the search for the practical meaning of divergence is now underway throughout the government. Since the start of 2021, UK officials have been instructed to “trawl” through preserved EU law to identify regulatory opportunities; a new Cabinet Better Regulation committee, chaired by Chancellor of the Exchequer Rishi Sunak, has been established to drive the programme of regulatory reform in government; a new “TIGRR” Taskforce on Innovation, Growth and Regulatory Reform, headed by former Conservative leader Iain Duncan Smith, has been set up to “scope out and propose options for how the UK can take advantage of our newfound regulatory freedoms”.¹ Most recently, at the Queen's Speech, the government announced a new post-Brexit

legislative agenda, with six new legislative bills intended to “take full advantage of the opportunities” from Brexit.²

The government is right to think about whether the UK’s regulatory model is fit for purpose. This is not so much because Brexit unlocks enormous new opportunities for changing the UK’s underlying regulatory choices, as this paper shows, but because to succeed after Brexit, Britain must think about the direction of its economic model. As our [recent report](#) sets out, the fallout from Brexit, Covid-19 and the transition to a net zero economy places the country’s economic model at a crossroads.³ The enormity of these challenges calls for the harnessing of all tools at the government’s disposal. It also demands imagination in thinking about how regulatory policy could help. Seen through this lens, Brexit presents both a challenge to the existing UK regulatory model and a rare opportunity for the UK to reassess whether its present model is fit for purpose.

The starting premise of this paper is that we should treat Brexit as a jolt – as a catalyst for change – for the reforms that the UK acutely needs today. These are the reforms that could have been achieved even without pursuing Brexit but which, by the challenge it poses to the existing model, Brexit somehow necessitates. Any attempts at reform must start not from generalities about sovereignty, or politically driven change for the sake of change, but rather from a clear-headed assessment of the realities that the UK faces: how decisions to diverge from the EU’s regulatory model will affect British businesses; how they will impact on the new trade barrier with Northern Ireland, the UK’s internal market and relations with the devolved administrations and, indeed, the very future of the United Kingdom; whether they strengthen or weaken the UK’s international economic position; and how they shape the UK’s role in an increasingly contested global regulatory environment.

There is a characteristic tendency on the part of many Brexiteers to dismiss any calls for realism as “missing the point of Brexit”. The reason for Brexit, they argue, is the inherent value of determining our future laws, not the practical exercise of that right. But that view is hard to reconcile with a frenzy of activity around divergence across Whitehall and political incentives to demonstrate the benefits of Brexit. By contrast, many ardent Remainers dismiss the idea of doing things differently from the EU out of hand, arguing that, whatever the government chooses to do, the forces of gravity will keep Britain permanently in the European orbit. Their mistake is failing to acknowledge the reality in which Britain has new flexibilities, albeit constrained by the political and economic complexities of divergence and the need to look with renewed urgency at the direction of its regulatory policy.

The objective of this paper is to inform the debate about how the UK should take on the task of rethinking its regulatory model after Brexit. It puts forward a centre-ground case for regulatory reform, starting from two premises: that Brexit offers an opportunity to assess whether the UK’s present regulatory model suits the challenges that the UK needs to confront, and that any assessment of post-Brexit regulation must begin with clear-headed realism about the new political, economic and legal realities that the UK faces. We examine four core questions:

1. **What does it mean to “diverge” from the EU?** In Section 2, we describe the UK’s regulatory flexibilities after leaving the single market, what the concept of “divergence” means and how divergence affects different parts of the UK.
2. **How should we assess whether regulatory divergence is in the UK’s interests?** In Section 3, we outline key considerations for assessing whether regulatory change is meaningful and set out five tests that the government should apply when evaluating the decisions to diverge.
3. **What are the opportunities for doing things differently in areas where the UK has regained flexibilities?** In Section 4, we examine the opportunities for divergence in the four main areas of new regulatory flexibilities while using the framework introduced to assess the costs and benefits of regulatory change.
4. **What is the right approach to the task ahead?** Finally, in Section 5, we place our discussion within the broader context of future UK regulatory policy and outline what the government’s priorities should be going forwards.

The focus of this paper is the design of the regulatory framework as a whole, rather than specific regulations or sectors. We do not attempt to offer a comprehensive assessment of all aspects of regulation across the UK economy. Nor do we focus on the domestic markets where the UK has always had the ability to set its own frameworks, such as consumer markets, transport, utilities or media.

2. Divergence: What Does It Mean?

The question of “divergence” from the EU has been at the centre of policy debate since the UK voted in June 2016 to leave the EU. But its meaning has remained elusive. To some, it is synonymous with a once-in-a-generation opportunity to do things differently to the EU; to others, it simply represents new bureaucracy and extra cost. In Brussels and EU capitals, it continues to drive suspicion about Britain’s motives. Against this backdrop, it is useful to start by explaining how divergence might come about and what might be its practical and political implications. We show that divergence is an inevitable consequence of the UK’s departure from the single market. It is something that cannot be stopped but only managed. If left unmanaged, it will have enormous implications not only for UK businesses but also for the integrity of the UK internal market and the very future of the United Kingdom.

The understanding of what divergence means has evolved throughout the Brexit years. For David Cameron, the only divergence that ever mattered concerned the free movement of persons and the ability to restrict the inflows of EU workers to Britain. For Theresa May, divergence was seen as an inevitable consequence of leaving the single market, but something that could be managed with the right strategy. Detailed plans for the “right to diverge” from EU regulations while keeping access to the single market were prepared in Whitehall but they failed to convince Brussels of their viability. Soon after, “managed divergence” morphed into the “Chequers plan”, which accepted curbs on regulatory autonomy for goods and level-playing-field provisions but sought to keep freedoms for the services sectors. Under Boris Johnson, the strategy changed sharply. The prime minister, claiming that the UK could not be “locked into the EU’s regulatory orbit” in perpetuity, traded off more generous access to the EU single market for future regulatory and legislative sovereignty. What does “divergence” really mean in this new reality?

The evolution of the UK’s regulatory model within the EU single market

A good starting point for discussing divergence is 1985. It was then – more than a decade after the UK had joined what was then known as the European Economic Community – that Conservative Prime Minister Margaret Thatcher, together with Lord (Arthur) Cockfield, a single-market commissioner, made the case for the common market in a consequential white paper on “completing the internal market”. The 1986 Single European Act was, in many ways, an invention of the British government and its belief that cutting excessive barriers to trade was worth the cost of accepting some common pan-European rules and “mutual recognition” of national ones. Over the past 30 years that have followed, Britain’s regulatory model has become significantly Europeanised – shaped by the regulatory principles,

standards and practices of the common European market. As the single market deepened over time, it became a highly legalised domain of European policy, placing extensive obligations on member states and delegating powers to EU institutions. True, this process restricted UK national lawmaking to the extent that UK regulatory frameworks were required to comply with minimum EU standards. But it also gave the UK access to what would become the largest trading bloc in the world, and it did not prevent the UK from pushing ahead with a domestic regulatory agenda that imposed bespoke domestic rules and, in many areas, more tailored use of the EU regulatory frameworks to advance specific UK policy objectives.

Amid all the interest in breaking away from the EU's orbit, it is all too easy to forget that the EU's regulatory model has, by and large, reflected the UK's own regulatory preferences, strategies and expertise. Not only was Britain instrumental in leading the creation of the European common market, but it also stood behind many of the deregulatory initiatives that came to define the single market of today, from the creation of state-aid rules to prohibit distortive subsidies as well as stronger environmental laws to the regulatory simplification agenda and the digital single market.⁴

It remains to be seen how the single market will develop without the UK's presence at the EU's table. Will its future evolution favour a similar spirit? Or will the balance of regulatory interests change inside the EU, with the evolution of the single market taking a different turn? This context is important because the policy debate about divergence needs to start from the recognition that the current regulatory frameworks in many ways reflect Britain's long-standing regulatory preferences and interests. However, this might change over time as a result of the EU responding to new regulatory challenges without the UK's voice at the table, and in ways that might not correspond with the UK's future interests.

The UK's departure from the single market and the return of regulatory powers and responsibilities

With its decision to leave the market that it had once helped form, the UK has regained its regulatory autonomy – the ability to set its own rules, interpret what they mean through the UK's courts and enforce them through domestic regulators. In Figure 1, we set out some of the main areas affected by this newly reclaimed autonomy. Across most of these areas, the UK government is now able to set its own regulatory frameworks; UK regulatory bodies have new oversight and enforcement responsibilities; and UK courts are no longer under any obligation to conform with future EU case law. In many areas, regulatory change will lie not only in diverging from the underlying legislation, but also from regulators choosing regulatory methods and protocols from their European counterparts, or from UK courts taking different interpretations to their counterparts in the EU.

It is also important to consider where the returning responsibilities will lie. The regulatory powers once held by Brussels and EU agencies will intersect with the competences of the devolved administrations,

meaning that post-Brexit freedoms might often be exercised by the governments in Edinburgh, Cardiff and Belfast rather than Westminster. It also means that, in practice, the degree of regulatory change will depend on the willingness of the devolved governments to deviate from the EU's regulatory approaches, and, subsequently, decisions to diverge will not have a uniform impact across all parts of the UK.

Figure 1 – An overview of new post-Brexit regulatory powers and responsibilities

	Area of regulation	Devolution intersect*	Examples of coverage
Manufactured goods	Product safety regulations	None	Rules and requirements for the safety of regulated manufactured goods, such as marking and labelling requirements etc. Includes product-specific regulations, for example on the safety of toys, electronics or lifts, as well as cross-cutting consumer protection and surveillance standards.
	Chemicals regulations	High	Regulations covering the use and authorisation of chemicals (REACH), hazardous substances, biocidal procedures and plant protection products.
	Automotive and vehicle standards	None	Rules and regulations setting standards for vehicles and their components, mobile machinery, emissions targets and labelling.
	Medicines and medical devices	Some	A regulatory framework for medicines, medical devices, setting safety and quality standards for use.
Agri-food	Agricultural regulations	High	A wide range of regulations spanning the use of genetically modified organisms (GMOs), fertiliser regulations, organic farming.
	Animal health and welfare	High	Rules and standards covering all aspects of animal welfare, movement of livestock, animal health standards (for instance the prevention and control of disease), surveillance and pet passports.
	Food safety and hygiene law	High	Regulations laying down the principles and requirements of food and feed safety, hygiene, food labelling, risk analysis, enforcement and relevant procedures. Includes food compositional standards on a range of commodities.
	Plant health	High	Requirements relating to the movement of plants and plant products, risk assessment of pests and outbreak management.
	Fisheries management	High	Rules and regulations relating to the sustainability of fisheries, access to waters, conservation and enforcement.
	Food geographical indications	None	Requirements around protected food names and the intellectual property regime.
Services	Financial services	None	Regulations relating to prudential rules, supervisory requirements and enforcement for financial services and insurance firms.
	Professional and business services	Some	Requirements that create systems for the recognition of professional qualifications and professional experience, allowing relevant professionals to work in regulated professions across the EU.
	Digital and data protection	None	Requirements governing the use of personal data, their monitoring and enforcement.
Networks and transport	Aviation	Some	Rules and a regulatory regime relating to the operation of air services, aviation management, noise management and air safety.
	Road transport	Some	Electronic road toll systems
	Rail transport	Some	Rules covering road licensing, passenger rights, rail franchising rules, rail markets and operator licensing, rail safety, etc.
	Maritime transport	Some	Regulations relating to the maritime transport rights and the provision of port services.
	Internal energy market	Some	Includes regulations on the transport of radioactive material and waste.
Cross-cutting regulatory frameworks	Environmental law and regulations	High	Rules and standards covering environmental quality, waste, chemicals, water quality, flood risk management, forestry and woodland management and environmental impact assessment. Includes the EU Emissions Trading Scheme (ETS) for greenhouse gas and requirements related to carbon capture and storage.
	Competition	None	Rules and regulatory regime for competition, merger control and antitrust, with new enforcement and oversight functions previously fulfilled by the Commission.
	State aid/ Subsidy control	None	A regime on the control of state subsidies and the associated enforcement powers.
	Consumer law, including protection and enforcement	Some	A body of law covering rights and protections for consumers, consisting of principles, enforcement and sector-specific rules, including rules on unfair contract terms, consumer rights, unfair commercial practices, etc.
	Employment law and regulations	Some	Includes regulations concerning individual and collective rights covering, for example, working time, the rights of pregnant women, fundamental rights at work, etc.
	Public procurement	Some	Requirements covering public procurement contracts, services and concessions operated by the public sector and utilities, including the energy, water, transport and postal services sectors.
	Data protection	None	Requirements governing the use of personal data, their monitoring and enforcement.

*‘Devolution intersect’ represents the degree to which an area of regulation intersects with the devolved competence. Red means a significant or full overlap with the devolved competence, in most or all

devolved administrations; amber represents an overlap with some devolved competences and/or in some devolved administrations; and green means no overlap with the devolved competence.

Divergence starts not with a bang, but with a whimper

The act of breaking away from EU rules is often seen, too narrowly, as the UK government deciding proactively to amend or scrap EU laws that were on its statute book pre-Brexit. This view is understandable but incomplete. It is true that, to maintain legal continuity after Brexit, the UK kept all pre-Brexit EU rules and regulations on its statute – commonly referred to as “retained EU law”. Most amendments and tweaks made to retained EU rules were technical changes – removing references to EU institutions that for the most part no longer have a role within the UK – or tweaks for consistency with other domestic laws.

The picture of continuity disguises the reality of considerable change that began to take place the moment that the UK formally left the single market on 1 January 2021. Although many domestic rules remain identical to the EU’s to the letter, the legal default now is that UK and EU regulatory systems are different and will evolve independently from each other. For the purposes of trade with the EU, domestic rules are no longer recognised as having the same meaning as those within EU law. Therefore, even though UK businesses may have seen little sign of radical departure from the actual rules on the statute book, they now have to comply with new requirements and seek new approvals to enter the EU market.

Divergence means different things, with different practical and political implications

What will happen in the future as the two legal and regulatory systems evolve independently? Regulatory divergence will originate from different sources, all of which have different practical and political implications. Below, we distinguish between the two main types of divergence and set out different instances in which they might arise.

	<i>Source of regulatory change</i>	<i>Example</i>
Active divergence	i. The UK government proactively chooses to amend,	UK decides to replace EU-derived regulations on

Changes to pre-Brexit EU-derived law and regulatory practices	modify or remove retained EU rules on its statute book	genetically modified organisms (GMOs)
	ii. UK regulators choose to diverge from the previously established regulatory practice of the EU	UK makes changes to the regulatory handbook of UK financial regulators, or regulators such as the Medicines and Healthcare products Regulatory Authority (MHRA) choose a different risk-assessment technique from the European Medicines Agency
	iii. UK domestic courts change interpretation of retained EU case law	No known cases to date
Passive divergence	i. The UK government, regulators or courts choose a different approach in a new area of policy or regulation	UK decides to regulate new technologies, such as nuclear fusion, with no clear legal basis in EU law at present
	ii. The EU develops the single market acquis and relevant case-law in new directions (and the UK chooses to reflect or keep pace with new or updated EU legislation)	Forthcoming EU legislation regulating artificial intelligence
Future legislative and regulatory changes on either side		

On the one hand, this difference between “active” and “passive” divergence is conceptual, highlighting an important but under-appreciated point: while it is common to think of divergence as a proactive decision by the UK government to loosen EU-derived rules, divergence is something that will, to a large degree, occur automatically and irrespective of the choices that the government makes. In other words, divergence is the new feature of trade between the UK and the EU.

On the other, the difference matters because the practical and political implications of active and passive divergence vary. On a practical level, active divergence will lead to initial familiarisation and compliance costs for businesses as firms adjust to the new regulatory realities, while passive divergence will bring more gradual changes for businesses. The potential economic advantages accrued by passive divergence depend on the future regulatory policy as well as the evolution of the EU single market. In some areas, it may lead to new competitive niches for the UK and in others it may lead to a gradual accretion of economic friction, like sand in the gears of the economy.

Active divergence has greater political salience in Brussels and EU capitals, where any attempts at departure from the underlying European rules will be viewed with suspicion and distrust, and may lead to use of the retaliatory mechanisms in the UK–EU Trade and Cooperation Agreement (TCA) to prevent much-feared potential regulatory arbitrage. The political implications of passive divergence may be less politically salient in Brussels but have greater implications domestically – in particular, they could lead to new friction between Great Britain and Northern Ireland and, depending on the future regulatory choices of the devolved administrations, they might exacerbate intra-UK political tensions.

Divergence from the EU means political tension within the UK

Any future decisions to diverge will have varied impacts across parts of the UK. One reason for this is Northern Ireland’s post-Brexit status with the EU, which means that in aspects of regulation Northern Ireland will have closer arrangements with the bloc. Under the Northern Ireland Protocol, which governs Northern Ireland’s cross-border trade with the EU, Northern Ireland must continue following EU single-market rules for goods and EU state-aid rules in order to avoid any barrier restricting the movement of goods or people on the island of Ireland.⁵ The protocol constrains any potential opportunities for divergence for Northern Ireland from EU rules that apply to the trade in goods, but it shifts the barrier down to the Irish Sea. Over time, as Great Britain pursues active divergence from the EU, or when passive divergence happens on the EU side, these behind-the-border barriers will only deepen. While the protocol attempts to obscure the scale of the regulatory divergence that currently exists between one constituent part of the UK and the rest, the reality is that the UK internal market is now separated into two parts – Northern Ireland and Great Britain – and the UK’s regulatory policy choices will mean drastically different things in these two places.

The second reason has to do with the repatriation of some UK regulatory powers from the EU not to Westminster, but to the devolved administrations. In areas where the devolved governments have competence, such as agriculture, environment and some transport issues, the devolved administrations have now taken over the regulatory powers and responsibilities formerly exercised by Brussels. There are 153 policy areas in which EU law and devolved powers intersect in one way or another.⁶ To manage regulatory divergence within the UK internal market, the UK and devolved governments have agreed to put in place new UK-wide common frameworks as a means of ensuring coordination across the four nations. In some areas, each devolved government is free to set its own policy; in others, some binding legal framework or legislations are needed to ensure consistency.

One consequence of this new arrangement is that in some areas, the devolved administrations will be able to exercise a degree of discretion about divergence from EU regulations in the future. Some may be more inclined to keep pace with future EU laws, perhaps contrary to the wishes of the government in Westminster. The Scottish government has already legislated that its ministers can follow future changes in EU law as they see fit.⁷ This “keeping pace” power in its legislation may be used to align regulatory standards between Scotland and the EU in areas of devolved competence, such as food-safety standards or environmental law, even if such changes are not mirrored in Westminster.

In practice, however, the use of these powers may be constrained by new UK-wide internal market laws. The UK Internal Market Act, passed at the end of 2020, enshrines wide-ranging “market access” and “mutual recognition” commitments in UK law, ensuring that anything that is acceptable for sale in one part of the UK will be acceptable in others. While the principles contained in this legislation will make it easier to sell products within the UK regardless of their production location – and, therefore, minimise the scope of practical divergence within the UK – they may make it more difficult for devolved governments to enforce their own regulatory choices and preferences.⁸

This situation becomes especially problematic in cases where the devolved governments decide to follow changes in EU law, while the UK government pursues a break from EU rules. This, as we illustrate with the oft-cited case study of chlorinated chicken (below), is poised to create a new and considerable layer of regulatory complexity and uncertainty for businesses, and political tension between Westminster and the devolved administrations. As these tensions become apparent when the UK government chooses to diverge – for example to pursue an ambitious trade agreement with another country – these new arrangements will feed the narrative that only by breaking away from the UK will the devolved administrations be able to make their own regulatory choices.

Case Study: Chlorinated chicken, the UK internal market and divergence

Consider a situation in which the UK allows imports of “chlorinated chicken” as a result of the UK government concluding a trade agreement with another country. Importing this produce is currently prohibited in the UK, largely as a result of EU-derived rules on animal welfare. Because

food-safety policy is a devolved matter, Edinburgh, Cardiff and Belfast currently have powers to maintain the ban on chlorinated chicken even if the UK government opted for a more permissive future approach. This is, for example, the present position of the Scottish government, which made clear that it would continue to prohibit the sale of chlorinated chicken in Scotland.

If the UK government loosened its domestic standards but the Scottish administration continued to oppose it, this would lead to tension between Scotland's regulatory preferences and the UK's domestic law. Under the devolved legislation, chlorinated chicken would still be banned in Scotland; however, under the UK internal-market laws, such a ban would only apply to goods produced in Scotland, or directly imported into Scotland from outside the UK. The Scottish government would not be able to prevent these goods entering Scotland from other parts of the UK, nor would it be able to stop them from being sold on its market.

With the devolved ban on chlorinated chicken effectively undermined, the regulatory choices of the devolved governments would be more constrained than before. The political ramifications of such a case are all too predictable: further tension with Westminster and the strengthening of the political case for Scottish independence.

This underlines the fact that a radical break from EU rules is not something that will affect all parts of the UK equally. Not only will Northern Ireland be treated differently from other parts of the UK, but divergence is poised to cause serious political tension within UK governance – an issue that will gain new urgency as the debate over Scottish independence intensifies in the years ahead.

3. To Diverge or Not to Diverge: When Is Regulatory Change Worth It and When Is It Not?

Divergence is a new defining feature of Britain's post-Brexit life, but where and how far the UK diverges from the EU depends on the decisions it makes in the months and years ahead. In making these decisions, the government will have to address the constraints it faces and balance the case for change with its costs. In this section, we set out the main considerations that should guide government decision-making about whether divergence is worthwhile.

The debate on post-Brexit divergence is often framed as an opportunity for a sovereign Britain to unshackle itself from the over-prescriptive, legalistic model of regulation inside the EU; a watershed moment, as described by David Frost, the UK's Brexit minister, to break away from “internalised principles of EU law and EU ways of thinking about things over the past 50 years”.⁹ It is true that the decision to leave the European single market has given the UK a new set of regulatory powers and that the government has the discretion to use these flexibilities in different ways: to tailor certain rules to specific domestic-policy objectives; to change standards in order to make the economy more competitive; or to depart from the EU's regulatory model drastically because it seeks different outcomes or objectives from regulation.

However, for all the regulatory autonomy the UK has gained in theory, the ability to diverge is neither unconstrained nor free. It is constrained by economics, as well as politics; by what happens domestically within the EU, as well as internationally; and by what businesses favour, as well as what the economy needs. It drives up costs for businesses and does little to change economic incentives; it could deepen economic and political friction with Northern Ireland; it could aggravate already strained political relations with the devolved governments, undermining the case for the union; and it can do precious little to advance the UK's strategic interests in areas where the UK cannot punch above its weight to exert influence on an international stage. So, how to decide whether regulatory divergence is worth its costs and constraints?

The five tests for evaluating decisions about divergence

We suggest that there are five main tests that the government should consider in evaluating decisions about divergence:

1. What is the policy rationale for divergence?

2. What public support is there for change?
3. What are the economic costs of change?
4. What are the political impacts for the UK internal market and the union?
5. How consistent is divergence with the UK's international obligations?

These questions should be applied to any decisions over EU-derived rules and regulations – what we describe as “active divergence”. They should also guide a response to passive divergence – new developments emerging from the EU that will come to affect the UK.

Test 1: What is the policy rationale for divergence?

There may be good and legitimate reasons why the UK might seek to diverge from the EU's regulatory and legislative approach. In some areas, domestic objectives and choices might be different from the EU's approach; in others, regulation might inhibit growth or innovation in the economy. Whatever those reasons may be, to demand regulatory change is to be able to provide specific justification for why the current system of regulation needs reform, why the underlying need for regulation has changed, or why the current regulatory preferences are no longer in the UK's interest.

Regulation typically exists because there was a need for it in the first place: it either addresses well-evidenced market failures and coordination failures or protects public interest in areas such as public health, environmental legislation and labour protection.¹⁰ It is difficult to reform regulation without addressing the question of “need” in the first place. When justifying decisions to depart from EU-originated rules, it falls to the government to provide that justification – to describe why change is necessary, what the objectives and anticipated benefits are, and what evidence it has to support its decisions. These reasons inevitably vary according to the specificities of particular sectors or regulated activities.

Broadly speaking, there are four main reasons why the UK might want to pursue divergence.

Objective

Justification for change

1. To tailor regulatory frameworks to the UK's own domestic needs

Domestic needs and policy objectives may be different to the common EU approach. The EU's policies may not always be optimal for specific domestic markets, not least because the EU's

	structures are designed to produce compromising policies that may not be always coherent when applied to domestic markets.
<hr/>	
2. To enhance competitiveness	Divergence may be seen as a way of enhancing the competitiveness of specific sectors and activities in the UK economy.
<hr/>	
3. To open the policy space for new international commitments	Divergence may be justified to open policy space that was previously inaccessible to the UK as a member of the EU, for example to pursue new trade agreements or other international treaties.
<hr/>	
4. To enable greater regulatory innovation	Divergence may be desirable to give greater discretion to UK regulatory bodies by choosing regulatory methods and protocols that promote innovation in the economy and pioneering regulatory activities.

Test 2: What public support is there for change?

Any shift away from the UK's well-established regulatory preferences needs to have democratic legitimacy and be backed by the public. While the public may not take much interest in the nuances of technical rules, they will have views about their preferred levels of protection, the strength of regulatory oversight and what activities should be regulated in the first place. There is a political constituency that is acutely sensitive to regulatory changes – especially efforts to drive down any protections already embedded in the legislation. Recent proposals by the UK government to review EU-derived employment rights, cancelled after a public outcry, made clear the need for public support for regulatory reform.¹¹ There is a risk that unless the government provides clear public justification for future changes and adequate opportunities for scrutiny, any attempts to depart from the long-standing regulatory

preferences will likely be seen with deep suspicion, and trigger a backlash from consumer groups, trade unions, civil society organisations and the media.

Test 3: What are the economic costs of change?

Divergence may also bring about economic costs for UK businesses and market actors. It might lead to new direct costs of compliance and administrative burden for businesses. It may also have indirect costs such as trade substitution, reduced market efficiency, costs to consumers, and costs of change to the government and regulatory bodies.

It is particularly important for the government to consider how decisions to diverge interact with the extraterritorial effects of regulation from other jurisdictions, most notably the EU. As is well-evidenced across many different industrial sectors, EU regulatory standards influence business practices and incentivise firms to standardise their entire production of service provision to comply with EU standards. This “Brussels effect” is well-documented and prevalent in highly related areas such as chemicals, data protection or environmental standards.¹² This means that, even when the government loosens some standards to promote competitiveness, such divergence might have the opposite effects. For many businesses trading with the EU and Northern Ireland, not only will this leave their incentives virtually unchanged, but it will introduce an additional layer of regulatory complexity and compliance.

Test 4: What are the political impacts for the UK internal market and the union?

Any substantive divergence must be evaluated against its impacts on the UK internal market and intra-UK political relations that sustain the United Kingdom. One significant constraint arises in the context of Northern Ireland’s post-Brexit relationship with the EU (discussed in the previous section). It means that not only do decisions to diverge from the EU have a different effect in Northern Ireland, but they also raise an active political choice for the rest of the UK. Every time the government in London considers either (a) active divergence from the rules that continue to apply in Northern Ireland, or (b) not keeping pace with future EU legislative changes that Northern Ireland must follow, it accepts greater economic friction for businesses in Great Britain trading with Northern Ireland and the associated political difficulties. As the case study below shows, passive divergence – arising from various regulatory changes on the EU side – is starting to pose politically sensitive questions to the UK government. In this context, and in the absence of any fundamental changes to the Northern Ireland Protocol, the government will have to confront the choice between accepting economic friction across the Irish Sea, or quietly following changes in EU law to minimise divergence.

Case Study: Passive divergence, medicines and Northern Ireland

A recent example of the EU’s planned changes to pharmaceutical rules illustrate the trade-offs that passive divergence entails for Northern Ireland.¹³ The EU is currently updating its pharmaceutical strategy, which will mean new rules on medicines and the updating of some of its existing

regulations. This is an area in which, under the protocol, Northern Ireland must stay aligned to EU law. Future legislative changes apply to Northern Ireland – and with a limited UK say or consultation over those rules.

Such future EU changes applying to Northern Ireland will deepen regulatory differences with Great Britain on pharmaceutical products. As a result, medicine authorised for use in Great Britain by the UK regulator, MHRA, may not be authorised for use in Northern Ireland by the relevant European regulator. Furthermore, any changes to the production of medicines in the EU, and in Northern Ireland, might have impacts for the competitiveness of the wider UK life sciences industry.

This demonstrates the importance of not letting passive divergence loose. With major changes to EU legislation that apply to Northern Ireland, the UK will have to decide how it responds – whether it knowingly accepts extra economic friction across the Irish Sea, or voluntarily (and perhaps quietly) chooses to mirror relevant EU changes in order to minimise the political and economic difficulties in Northern Ireland. As the House of Commons European Scrutiny Committee [notes](#), “the Government must engage [with the Commission’s changes] as it will need to be mindful not only of the direct implications for Northern Ireland, but also of the impact of regulatory divergence between Great Britain and Northern Ireland concerning medicinal products.” ¹⁴

Test 5: How consistent is divergence with the UK’s international obligations?

Finally, the government will have to consider if any proposed divergence is consistent with the UK’s international obligations. There are two main ways in which international commitments affect future regulatory choices. On one level, there are legal constraints that are binding for the UK and limit how far the present and future governments can change their approach. Most important in this context are the UK’s “level-playing-field” obligations with the EU, agreed in the Trade and Cooperation Agreement (TCA), that impose legal constraints on the UK’s ability to deregulate by giving UK firms competitive advantage (discussed in further detail in the next section).

Furthermore, the UK’s domestic regulatory regimes are often shaped by international standards. Across many areas, from product standards to the regulation of financial services, international standards often set the benchmark for domestic regulations. While the UK may be able to tailor its regulation to domestic needs, such opportunities will be necessarily constrained by the UK’s continued compliance with international standards and participation in international fora.

Weighing up the decisions to diverge

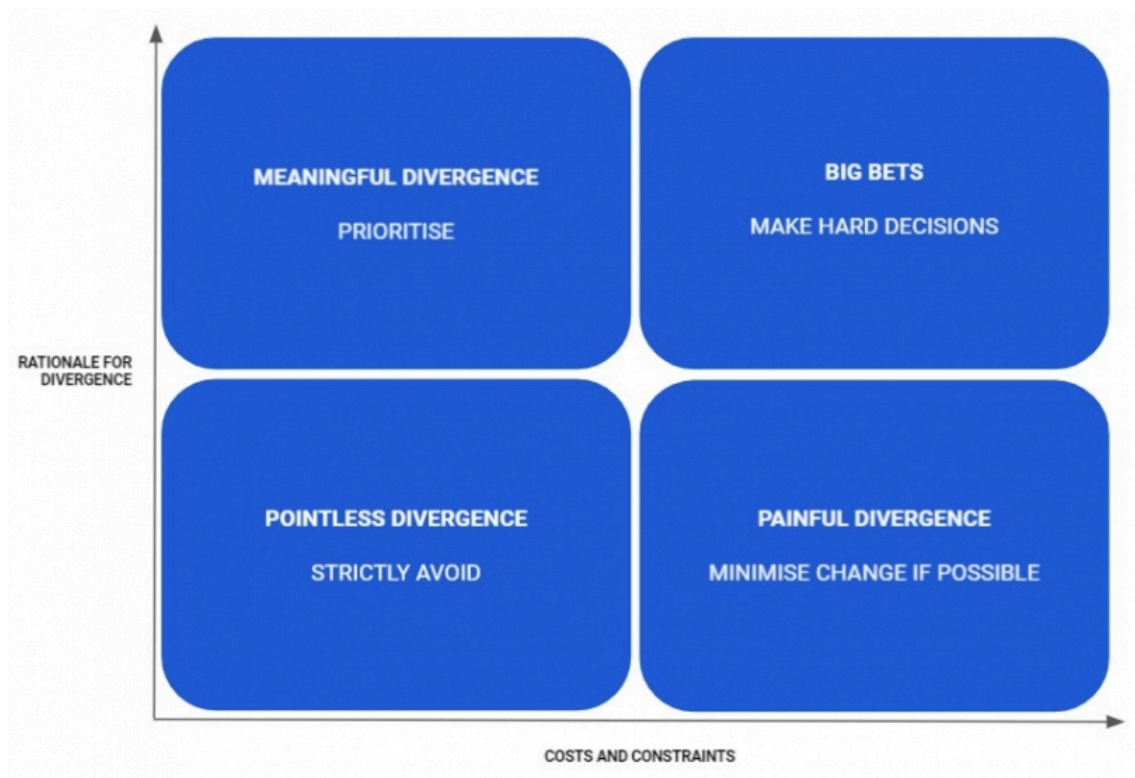
In considering whether to diverge, the government will need to balance the rationale for regulatory change with consideration of its costs and constraints. Depending on the balance of the benefits and costs, we can distinguish four areas:

- **Meaningful divergence:** Areas where the constraints are minimal and costs are low, but the benefits from divergence are substantial. This is where meaningful opportunities can be achieved.
- **Big bets:** Areas where the constraints and costs are significant, and the benefits are potentially substantial. Meaningful change can be achieved in these areas, but it entails a considerable economic and/or political price. Whether change should be pursued depends on what the government chooses to prioritise.
- **Pointless divergence:** Areas in which the constraints and costs are minimal, and the benefits are low. Divergence in this area is by and large performative and should be avoided.
- **Painful divergence:** Areas in which the constraints and costs are significant, but the benefits are low. These are changes that carry high economic and political costs for low or no benefit.

Each of these areas dictates the broad strategy that the government should take to managing post-Brexit regulatory change (summarised in Figure 2). The scope to diverge lies in areas where the costs and constraints are limited but the reasons for departing from the EU are robust. In areas where change is meaningful but carries significant costs, the government will have to make hard choices about whether, and how far, to pursue change.

There are two areas where divergence should be avoided or minimised. The government should seek to minimise “painful divergence” in areas where the costs are substantial and the rationale for change is limited or none. It should also seek to avoid pointless change in those areas where the reasons to diverge are limited and so are the costs.

Figure 2 – The four quadrants of divergence and strategies for making decisions about it



4. Doing Things Differently: Where and How Far?

When thinking about regulatory opportunities, the government should consider how its proposals to diverge from the EU meet the five tests outlined in the previous section. In this section, we apply these tests to the five main areas in which the UK has regained autonomy – regulatory frameworks applying to the manufacturing sectors, agri-food, services, and cross-cutting areas such as competition and labour protection. We provide a high-level assessment across these areas to demonstrate the decisions and trade-offs that divergence entails, but our aim is to give a full valuation of opportunities across different sectors.

Manufacturing sectors

In the manufacturing sectors, the UK has regained autonomy over its product-safety framework and a vast body of EU-derived sector-specific rules and regulations, covering chemicals, life sciences, advanced manufacturing, electronics, automotive and other sectors. EU-derived regulations differ in scope and stringency: in some sectors, they set the minimum standards that businesses must meet to place their products on the EU market. In others, current regulations are more prescriptive. Another important feature of regulatory frameworks in this area is that many regulations are devolved competences (except for the product-safety frameworks), meaning that the devolved governments are free to decide their own approaches.

Test 1: How strong is the rationale for divergence?

- Some opportunities for the UK to enable regulatory innovation in response to emerging technologies, new modes of supply and products, particularly in high-tech manufacturing niches such as health technologies and medical devices. Opportunities within those aspects of regulation that currently lack clear and stable EU legislative and regulatory basis, such as the regulation of novel biotechnologies.

- Some scope to tailor sector-specific regulations to the needs of domestic markets.
- Limited opportunities for enhancing competitiveness through regulation, except possibly for the life-sciences sector.

Test 2: What public support is there for change?

- Limited public support for fundamental changes to the UK rulebook across manufacturing and related consumer protections.

Test 3: What are the economic costs of change?

- Overwhelming incentives for UK manufacturers to reduce extra compliance costs and duplication of standards. The EU is the largest trading partner for both imports and exports of goods, with UK firms in sectors such as advanced manufactured and chemicals heavily dependent on EU trade: in these sectors, over 50 per cent of production goes to the EU. ¹⁵
 - Most firms already face additional regulatory approvals and authorisations when exporting into the EU. To continue selling to that market, UK goods exporters will have to continue to comply with relevant EU standards.
 - Further changes to the substantive rules are likely to be seen as duplication of the compliance requirements for businesses and will increase the overall burden of regulation on them.
 - Unless the composition of UK goods exports drastically changes in the future, with significant substitution giving way to non-EU markets, the
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incentives for most British goods exporters will continue to point towards sustained compliance with EU rules to minimise the costs and regulatory burden.

Test 4: What are the political impacts for the UK internal market and the union?

- Obligation for Northern Ireland to continue aligning to most of the EU goods acquis. Further divergence deepens economic costs between Northern Ireland and Great Britain.
 - Aspects of sectoral goods regulations are distinct across the UK, but the product-safety framework is a reserved competence. In areas of devolved competence, Scotland is likely to keep pace with changes in EU goods acquis.
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Test 5: How consistent is divergence with the UK's international obligations?

- Little scope to diverge in areas highly dependent on international standards (e.g. UNECE for automotive sector). Greater scope in new and emerging sectors and technological niches.

Our assessment for the manufacturing sectors suggests that the opportunities for active divergence in these sectors are severely constrained by the economic and political realities. The government has already announced a broad-ranging review of the UK's product-safety framework and has introduced changes to various sector-specific frameworks, for example in the chemicals sector; it would be prudent of the UK to minimise substantive change unless it is in the UK's interest. Passive divergence will arise from changes to EU frameworks; the EU is currently pursuing an ambitious programme of reforms to its product-safety frameworks (such as the EU General Product Safety Directive, new legislation on AI, and future legislation on circularity). It remains to be seen how far the UK will want to step away from these changes. Given the dependence of UK manufacturers on the EU market, and the significant impacts that divergence would have within the UK, it is desirable for the UK to voluntarily monitor changes on the EU side and consider mirroring them within its own rulebook.

Case Study: Divergence in the chemicals sector and the case of UK REACH

The opportunities and challenges of divergence in the highly regulated sectors are evident in the chemicals sector. The UK no longer participates in the EU regulatory framework for chemicals (REACH) or the European Chemicals Agency (ECHA). The government has put in place a separate UK REACH regime that applies to businesses that import, sell or distribute chemicals in Great Britain, creating a Great Britain-wide market for chemicals, with the Health and Safety Executive (HSE) taking over the regulatory responsibilities of the ECHA. Under the Northern Ireland Protocol, however, the EU's REACH regulation will continue to apply to Northern Ireland.

At the end of the transition period, the REACH regime was preserved in domestic legislation. However, the UK government passed secondary legislation in March 2019 that amended the retained rules with a new UK-only REACH regime. The legislation stated that the new system would replace the EU one as closely as possible, maintaining the same level of health and environmental standards. Establishing the new system has required the UK to set up a new chemicals database and a separate IT system; operation will cost an estimated £13m per year.¹⁶ The bigger cost is that UK businesses trading with the EU now have to comply with two separate UK and European Economic Area-based regulatory systems, leading to duplication of compliance costs (estimated to amount to £1 billion) for the UK chemicals industry.¹⁷

Additionally, there is a risk that as the EU system progressively diverges from the UK's over time (as a result of passive divergence), the costs are likely to grow. The European Commission has recently introduced a new Chemicals Strategy for Sustainability, which will lead to amendments to existing EU legislative acts. Unless the UK follows these changes in domestic law, it is likely that they will lead to greater divergence between UK REACH and EU REACH. The ultimate effect of divergence between two systems is that a chemical could be deemed safe in Great Britain, but unsafe in the EU and Northern Ireland, and vice versa. This would have real implications not only for the costs of trade, but also to protection of health and, therefore, the UK internal market.

Agri-food sectors

The second area of autonomy is over the UK's food-safety system and standards. The UK's food regulations have largely been derived from EU law. Departure from the EU single market has meant that the UK has regained the ability to set its own regulations for various aspects of the agri-food sectors, and UK authorities have taken on the regulatory responsibilities that were previously held by the EU and its agencies – the Food Standards Agency (FSA) and Food Standards Scotland (FSS), for example, are now responsible for the UK's risk assessments and food controls. Responsibility for food-regulation policy has

been devolved for some time, meaning that there is a degree of policy and regulatory divergence within the UK with respect to food and feed-safety controls and food-safety standards.

Test 1: How strong is the rationale for divergence?

- Some scope for the UK to tailor regulations to the domestic circumstances in agricultural regulations (e.g. the ban to export live animals for slaughter and fattening), ¹⁸ improvements in animal-welfare policy and standards, and labelling requirements. ¹⁹
- Some opportunities for UK regulators to take a different approach to aspects of risk regulation and pursue regulatory innovation in these areas, e.g. in gene editing. ²⁰
- Some rationale in divergence as a means of opening the space for new international treaties, e.g. in trade negotiations with the US, which has long viewed EU-derived food-safety standards as discriminatory.

Test 2: What public support is there for change?

- Highly sensitive area of public concern, e.g. around the use of GMOs and other modified organisms, with public support for substantive change limited.

Test 3: What are the economic costs of change?

- High risks of duplication of compliance requirements and cost. The food sectors are highly dependent on exports to the EU, with over 60 per cent of UK exports destined for the EU single market. ²¹
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- Northern Ireland being part of the EU sanitary and phytosanitary (SPS) regime reduces incentives for most producers to shift away from other standards without related EU changes.
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Test 4: What are the political impacts for the UK internal market and the union?

- Northern Ireland has to comply with EU SPS standards. Highly sensitive as agri-food is the biggest source of border checks in the Irish Sea and divergence in Great Britain is likely to exacerbate economic and political tensions.
 - Significant political ramifications because of the devolved nature of food safety and agricultural regulations, with significant scope for political tension between Westminster and the devolved governments if the UK government was to substantively change from EU standards.
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Test 5: How consistent is divergence with the UK's international obligations?

- Legal constraints for Northern Ireland's continued compliance with EU SPS rules. No similar provisions for Great Britain in the TCA.

Overall, the scope for substantive divergence in the agri-food sectors is constrained by the economic and political realities. There are some opportunities for tailoring particular aspects of the food-system and animal-welfare standards to the UK's domestic needs, and for opening up a policy space for signing new international agreements. However, the incentives for most UK firms point towards continued compliance with the minimum EU food-safety requirements, regardless of the choices that the UK makes. Furthermore, there are significant political ramifications of substantive change given Northern Ireland's continued participation in the EU SPS regime and the regulatory preferences of the devolved administrations. Any significant divergence from agri-food regulations will put the UK government in direct conflict with the devolved administrations, particularly the Scottish government, which has already stated its intention to abide by EU SPS standards voluntarily. This tension between potential changes to

different approaches in the agri-food rulebook for the UK, and its high economic and political costs, can be seen in the example of potential change to gene-editing (GE) regulations.

Case Study: Regulation of genetic technologies

The regulation of genetic technologies is one area in which the UK has indicated a potential change of approach from the EU. Currently, genetic technologies are regulated in the UK by retained EU law, which treats all GE organisms as GMOs. In January 2021, Defra launched a [consultation](#) on whether (and how) the UK might want to regulate genetic technologies differently.²² Following the consultation, the UK may choose to amend its regulatory approach, lifting some of the restrictions that are currently in place within the EU. While gene editing might offer opportunities for the UK agricultural sector, it requires moving away from the EU's approach, which had traditionally been guided by the precautionary principle of prohibiting GE due to the risk of unintended harm. Irrespective of the merits of any changes, this is a salient example of how complex the decisions around divergence might be for the UK government.

The first set of implications will be on the union and UK internal market. Regulation of GMOs is an area of devolved competence, meaning that any future changes decided upon by the UK government would only apply to England. No changes would apply to Northern Ireland, which continues to comply with relevant EU rules. Scotland and Wales have already made clear that they would not follow suit and would continue to prohibit the use of GMOs produced there.

Furthermore, Scottish ministers have the powers to keep pace with the changes to EU law, including in this area, which would mean a substantively different approach within the UK. However, due to the Internal Market Act, products from any part of the UK must be accepted on sale anywhere in the UK. Therefore, if the UK ultimately chose to relax the rules, any English-made GE products would have to be accepted within the whole of the UK, fuelling political tensions between the government in London and the governments in Edinburgh and Cardiff.

The second set of implications will be on trade with the EU. If the UK relaxes the rules, this will put the UK at odds with the EU's approach. It will necessitate further checks on certain goods, including potentially between Great Britain and Northern Ireland, and most likely prevent the possibility of recognition of SPS legislation with the EU in the future. Any decisions to diverge entail a complex set of trade-offs with respect to the UK internal market, the future of the union, and trade and cooperation with the EU.

Services sectors

Outside the single market, the UK is also free to diverge from the EU rulebook on services. The services sectors are less constrained by the TCA, and the services chapter of the TCA reaffirms the rights of both

parties to “regulate within their territories to achieve legitimate policy objectives”.²³ At least in theory, this gives the UK an opportunity to pursue a different regulatory approach from the EU.

Test 1: How strong is the rationale for divergence?

- Large variation across services sectors. In financial services, there are some opportunities to tailor the EU-originated Solvency II regime for insurers to domestic needs, ease the prudential requirements for small non-systemic financial institutions and consolidate the regulatory rulebooks.²⁴
 - Opportunities for regulatory innovation, e.g. supporting fintech through regulatory “sandboxes” and more flexible approaches.
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Test 2: What public support is there for change?

- Limited public support for deregulation of financial services following the 2008 financial crisis and its consequences.
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Test 3: What are the economic costs of change?

- UK firms exporting cross-border services are less dependent on the European market than the goods sectors. However, the EU remains the UK’s largest export market for services, with more than 40 per cent of all services exports being sent there.²⁵ In business services, nearly half of all exports are destined for the European market.
 - Prior to Brexit, nearly two-thirds of all services exports were sold on a cross-border basis, meaning that domestic firms relied on the regulations of Britain as the home state for access
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to the EU market, as opposed to the host state's rules, as is more common in international trade.

Test 4: What are the political impacts for the UK internal market and the union?

- Limited. Services regulations mostly apply on a UK basis, although there are risks of possible divergence between UK nations across business and professional-services sectors. [26](#)

Test 5: How consistent is divergence with the UK's international obligations?

- Legal constraints limited for most aspects of services. Regulatory obligations on services in the TCA are very narrow. Equivalence determinations for financial services, if granted by the EU, would increase the need to align with certain EU regulatory objectives and outcomes.
- International standards, particularly prevalent in financial-services regulation, limit the scope for substantive divergence.

The balance of opportunities and constraints is different in the services sectors than in most of the goods sectors. There might be opportunities to tailor aspects of the services regulations for UK needs and, in financial services, to improve upon the existing body of regulation. There are also opportunities to support innovation through more responsive and agile regulation. Unlike in most of the goods sectors, there are also fewer political and legal constraints that translate into difficult new choices for the UK government. For most services sectors dependent on exports to the EU, the costs of divergence has already taken place with the loss of automatic cross-border access to the EU single market.

Future EU rules will not substantively constrain the UK's regulatory approach, but the interconnected nature of services markets means that there are benefits to active regulation cooperation with the EU in all aspects of services – but especially in financial and digital services. The EU single market continues to evolve rapidly in the area of digital services, with the UK government developing plans to introduce similar new legislation for online harms and for the regulation of large online platform firms. Inevitably, there will be regulatory differences in the way that UK and EU systems evolve in this new area of

regulation. But as many businesses are providing services on a cross-border basis, the EU's standard-setting power will likely have an extraterritorial effect in much the same way as the General Data Protection Regulation (GDPR) did. Voluntary cooperation to establish regulatory coherence is, therefore, likely to have significant benefits.

Cross-cutting regulations

The UK also regains autonomy over cross-cutting policy and regulatory regimes, which typically apply to all market actors and include rules on consumer protection, competition, subsidies, public procurement, environmental and labour protection, climate change, and data protection. These rules are intended to create fair and effective markets that support consumer confidence, and to ensure that competition markets work well. These areas have, to different degrees, emerged from the EU single market, with EU law as a basis for many of them and the regulatory responsibilities often sitting with EU institutions. For that reason, these rules have been at the centre of the hard-Eurosceptic image of a protectionist, over-regulated EU, with the calls for post-Brexit deregulation often focusing on these areas. As the UK has left the single market, the competences for these regulatory areas have fallen back to the UK, with implications for how these frameworks will be regulated in the future and how far they might diverge from the EU's approach. The responsibility for environmental protection will, for example, be taken up by a new Office of Environmental Protection; competition by the Competition and Markets Authority (CMA); subsidy control policy by a new domestic regulator, and so on.

Test 1: How strong is the rationale for divergence?

- Some opportunities exist for tailoring the EU-derived frameworks to domestic objectives in areas such as future subsidy-control policy or environmental-protection law, or in simplifying the present web of procurement laws.
- Some scope for exploiting regulatory innovation, looking at how regulatory frameworks could support the UK's rapidly changing economic, labour and environmental needs.

Test 2: What public support is there for change?

- Strong public support for maintaining current levels of protections across employment,
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social and environmental regulations is a significant constraint; any substantive changes to these frameworks are very likely to trigger a public backlash.

Test 3: What are the economic costs of change?

- Considerable “Brussels effect” across various aspects of cross-cutting regulations; when EU rules become more stringent than the UK’s, it is unlikely that it will be beneficial for many businesses to depart from higher standards.
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Test 4: What are the political impacts for the UK internal market and the union?

- Environmental standards and aspects of employment law intersect with devolved competence. Divergence by the UK is likely to lead to future tension with the devolved administrations in these areas.
 - Some difficulties related to the interaction of the UK’s future subsidy regime and the Northern Ireland Protocol. EU state-aid provisions continue to apply to Northern Ireland (Art 10, NI Protocol), with potential reach-back to the rest of the UK.
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Test 5: How consistent is divergence with the UK’s international obligations?

- Significant legal constraints within the TCA on the UK’s ability to substantially diverge from the agreed level-playing-field rules with the EU. It contains novel and unprecedented commitments on subsidies, environmental protection and labour protections. They include: (i) a commitment to establishing and maintaining a domestic subsidy-control regime; (ii) a “non-

regression” clause prohibiting the UK from lowering the pre-Brexit levels of domestic protections on environment and labour; and (iii) a rebalancing mechanism for instances of “systemic divergence” across environmental, labour and subsidy rules, which may lead to the imposition of retaliatory tariffs.

- International commitments in the area of state subsidies (WTO), labour standards (ILO) and the environment (various international treaties) limit domestic action.

Across the body of cross-cutting frameworks, there are some opportunities for fine-tuning existing rules to domestic policy objectives and needs, for example with the design of the UK’s independent subsidy-control regime; a more tailored competition regime to new policy needs in the digital markets; or by adapting the consumer-protection framework for the future. However, any attempts to lower pre-Brexit levels of protection are constrained by both the lack of public support for lower standards and the legal commitments that the UK has made with the EU under the TCA.

The level-playing-field provisions within the TCA will mediate any wholesale changes to UK domestic frameworks. To the extent that future regulatory changes have “material impacts” on trade or investment with the EU, TCA prohibits “significant divergences” on subsidies, labour and social standards, environment and climate. ²⁷ If such divergence were to take place, this could lead to rebalancing tariffs imposed by the other party unilaterally. Given the novelty of these provisions, there is uncertainty about the precise meaning of what would constitute “significant divergences” and “material impact on trade and investment”, but it is clear that, in the event of the UK threatening to substantively change the current rules, the EU would not shy away from testing these provisions with a dispute. With these safeguards in place, it will be very difficult for the UK to water down environmental and labour-protection standards to give UK businesses a competitive advantage without facing the very real prospect of retaliatory action by the EU.

5. Looking Ahead: What Is the Future of the UK's Regulatory Policy After Brexit?

Britain may have regained its regulatory autonomy, but what the new freedoms mean in practice will depend on the choices the government makes in the months and years to come. In this section, we offer our assessment of priorities for the government as it considers the post-Brexit regulatory reform agenda. We propose eight recommendations within four priority areas where we think the government should focus in the months ahead.

The four areas of focus and eight recommendations for the government are:

Making strategic decisions about divergence	1. Be strategic about areas in which to pursue regulatory change. Minimise pointless divergence for the sake of UK prosperity and the future of the union. Diverge from the EU only in those areas where there are demonstrable benefits for the UK's competitiveness and greater regulatory innovation.
	2. Develop a regulatory policy that supports a long-term economic and innovation strategy.
	3. Undertake a comprehensive and independent review of the UK's post-Brexit regulatory model.
Updating the UK's regulatory model after Brexit	4. Audit the UK's post-Brexit regulatory governance to prevent regulatory gaps and divergence by neglect.

Minimising the impacts on the UK internal market and the union

5. Monitor the evolution of the EU single market and constructively engage with future regulatory changes on the EU side.

6. Create a more balanced approach to managing divergence with the UK internal market

Developing the UK's international position as a regulatory actor

7. Set a clear mission and priorities for the UK as an independent global regulatory actor.

8. Restart active regulatory cooperation with the EU and its agencies.

Making strategic decisions about divergence

1. Be strategic about areas in which to pursue regulatory change

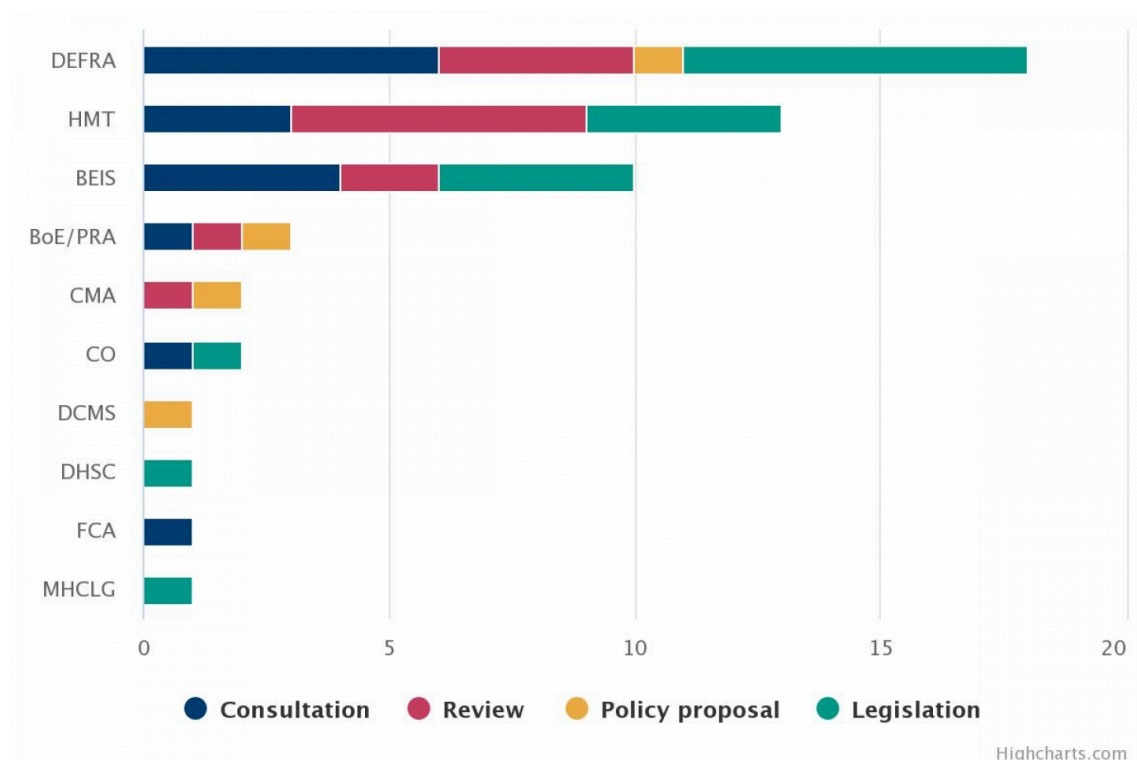
More than five years on from the vote to leave the EU, political incentives pull the government towards rapid regulatory change that demonstrates the “Brexit dividend”. Across Whitehall, there have been at least 50 different post-Brexit initiatives considering future legislative and regulatory changes (see Figures 3-4 and the Annex for the full list). Some of them, such as the freeports initiative, have few demonstrable economic benefits, but signal that Brexit has been completed. Others try to introduce greater changes to the inherited body of rules or systems from the EU, such as new procurement rules, animal welfare legislation, or the review of EU-derived financial-services regulations. In the meantime, UK regulatory bodies, some of them anxious to make use of their new responsibilities, have been pursuing various updates to their rulebooks and protocols.

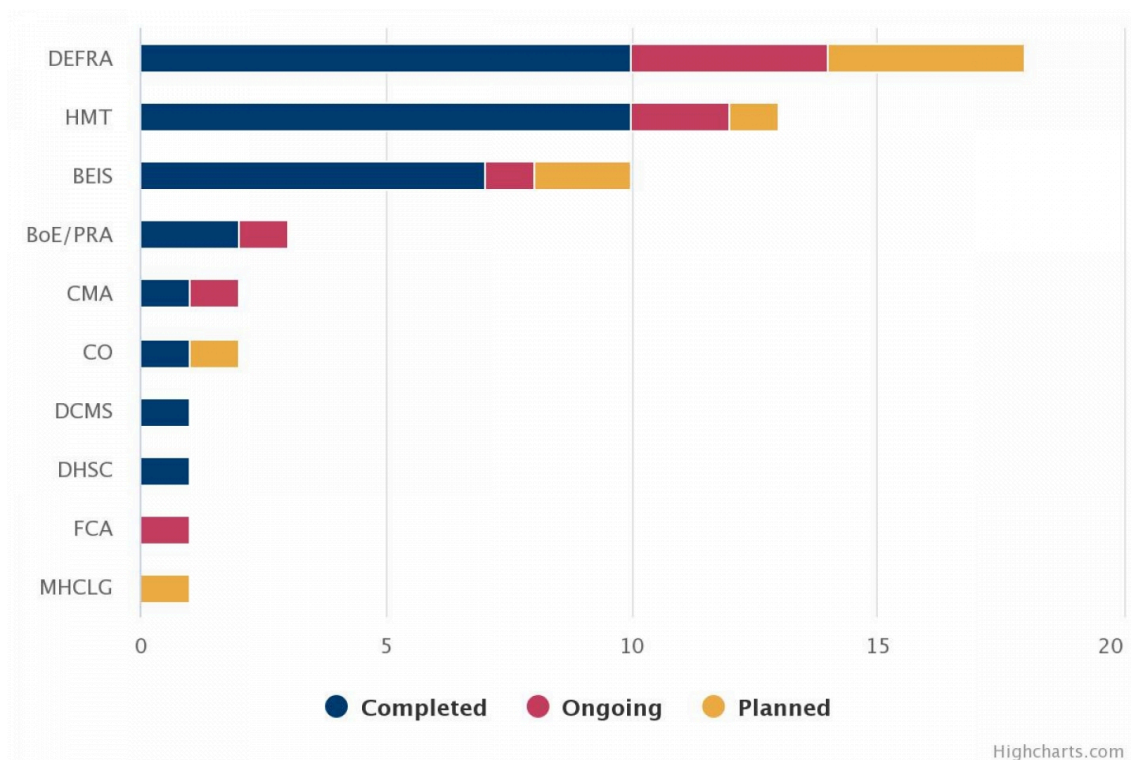
However, with little direction from the centre of government on what regulatory change should seek, what outcomes to prioritise, and how it addresses the challenges highlighted in this paper, there is a real risk that the UK ends up with two undesirable outcomes. It might end up with changes that have few real benefits, pursued by the government because they are relatively costless, such as freeports. Such

changes are, by and large, pointless: they distract the government from other priorities and more meaningful reforms.

Worse, the lack of strategy might lead to regulatory changes that not only have few benefits but come at a price – leading to not only pointless but also painful divergence. For example, UK manufacturers are de facto required to comply with recently introduced changes to EU chemicals legislation in order to continue selling into the single market, yet the UK regime, unable or unwilling to consider these changes, has not responded to them.²⁸ Such divergence is painful because it adds to the compliance costs incurred by businesses and it is pointless because the government has no incentive not to choose to closely align with those changes.

Figures 3–4 – Post Brexit regulatory and legislative initiatives, by type and government-lead department (top) and by status (bottom)





We suggest that the government should adopt a two-fold strategy to manage divergence after Brexit. It should:

(i) Minimise pointless and painful divergence in areas where it is unnecessary and introduces high costs for no demonstrable benefit.

In areas of regulation and sectors where the economic, political and legal constraints are too significant, divergence should be avoided. If it cannot be avoided, for example because it emanated from future changes on the EU side, then it should be proactively managed and minimised by the government. In areas with a long legacy of common regulation, such as environmental protection or the chemicals sector, there is no prize in the UK disturbing it for anything except an overwhelming reason of self-interest.

(ii) Focus on areas where meaningful regulatory change can be achieved.

The government should seize opportunities where divergence is meaningful – in areas where the potential benefits are substantial and the constraints are limited. In practice, such opportunities will predominantly lie with fine-tuning aspects of domestic frameworks (e.g. in areas such as competition policy or subsidy control); pursuing regulatory reform specifically designed to enhance competitiveness (e.g. in financial services); and in giving UK regulatory bodies discretion to support innovation and development of specific technological niches.

Promoting regulatory innovation is one area where the UK can have a meaningful impact and show leadership beyond its borders. In recent years, the UK has been a leader in supporting innovative regulatory practices, with initiatives such as the government-run Regulators' Pioneers Fund or the regulatory "sandboxes" that have helped nurture the UK's fintech sector.²⁹ The work of the Regulatory Horizons Council also provides an example of how relevant expert groups, with a degree of impartiality from the government, can guide the government's priorities in a more evidence-based way.

2. Develop a domestic regulatory policy to support a long-term economic and innovation strategy

In some of the cross-cutting areas of regulation where the UK has regained flexibility, there is a case for reviewing whether current rules are fit for purpose. Some of the frameworks that had been designed in the EU's context could, at least in theory, be adapted to the UK's own circumstances in such a way that they support the UK's policy needs and objectives. The UK could, for example, design a subsidy-control regime that is more permissive than the EU's state-aid system; a competition policy and enforcement regime that is more responsive to the needs of digital markets; or a domestic procurement system that effectively consolidates the complex web of over 400 pieces of EU-derived rules currently on the UK's statute book.

However, this is possible only if these choices are considered within the context of the UK's wider economic and industrial strategy. If the domestic regulatory reforms are to be meaningful, the regulatory choices must be guided by long-term objectives for making the UK economy more prosperous and dynamic. Any serious regulatory reform must be guided by the clarity of policy rationale, not merely the ability to shake up the regulatory system because it is now within the UK's gift.

What is important to note is that these opportunities should be no pretext for wholesale deregulation. Not only would any slash-and-burn approach to regulatory reform be constrained by the EU-UK TCA (which limits the opportunities for lowering EU-derived standards or substantially diverging from the pre-Brexit levels of protection), but they would also likely trigger a public backlash.

Updating the UK's regulatory model post-Brexit

3. Undertake a comprehensive and independent review of the UK's post-Brexit regulatory model

For the past three decades, the UK's regulatory model has evolved in tandem with the deepening of the European single market in which the UK played an instrumental role. Now out of the single market, the UK government, devolved governments and regulatory bodies have gained new powers and responsibilities in areas that had been previously overseen by the EU. Although the ability to radically break away from the EU model is limited by practical and political realities, there is an opportunity for the government to use Brexit to reflect on whether our current regulatory model as a whole remains fit

for the future. While Brexit itself may be the biggest change to the UK's regulatory system now, it is certainly not the only challenge for the current and future regulatory system.

There are at least three other factors that prompt questions about the UK's regulatory model.

- **Technological change.** The pace of technological change, especially in digital markets, presents new regulatory challenges as well as opportunities for growth that the UK can support and nurture with the right regulatory environment.
- **Long-term structural underperformance of the UK economy.** The UK economy finds itself outside the single market facing chronic structural challenges – stagnant productivity growth, low business investment, regional imbalances and the transition to a net zero economy. Regulatory policy can be a critical component in addressing these challenges.
- **Growing regulatory competition internationally.** The UK finds itself as an independent regulatory actor in an increasingly contested global regulatory environment, between three main spheres of regulatory influence – the EU, the US and China – all of which have increasing extraterritorial effects on British businesses and consumers.

Rather than searching for quick wins to demonstrate the benefits of Brexit, we can treat the departure from the single market as a catalyst for looking critically at the design of its regulatory framework as a whole: by asking ourselves what the desired outcomes of regulation are for new digital products, services and modes of supply; what approaches to risk regulation are in the UK's long-term interest; and how to position the UK within emerging global regulatory spheres.

To achieve this, the UK government should undertake a comprehensive and independent review of the UK's post-Brexit regulatory model. Such a review must start from a clear understanding of the present challenges for UK regulation and be undertaken independently of government, with input from UK regulators, businesses and civil society groups.

4. Audit the UK's post-Brexit regulatory governance to prevent divergence by neglect

Departure from the EU has had a significant impact on the regulatory architecture of the UK. There are around 90 regulatory bodies across the UK, excluding local authorities,³⁰ and most of them have had to take on a wider range of new regulatory responsibilities – previously carried out by EU institutions and agencies – at pace and at very short notice. In some areas, these new responsibilities have been given to existing bodies, such as the Competition and Markets Authority (CMA), which has expanded to prepare for new responsibilities; in others, the government has established new agencies, such as the Office for Environmental Protection, although it will not be fully operational before the end of 2021.

The challenge is that in this evolving environment, there are increased risks of regulatory failure and divergence by neglect. Six months after the UK's departure from the single market, not all regulatory functions are ready yet and in many areas the regulators and government are still making sense of their

new functions and responsibilities, and how their approaches might differ from those of the EU and its agencies. Regulatory capacity and capability take time to build and many functions will take some time to implement before the UK has a fully ready post-Brexit regime. To prevent regulatory gaps, the government should also commission a review of the post-Brexit regulatory governance. Unlike the review on the future of the UK's regulatory model, this review should be focused on the "here and now". It should assess functions and responsibilities that the UK has taken on after Brexit; how they are managed and shared across the UK; the risks of regulatory gaps; and the potential challenges of the biggest change to the country's regulatory landscape in decades.

Minimising the impacts of divergence on the UK internal market and the union

5. Monitor the evolution of EU single-market legislation and constructively engage with future regulatory changes from the EU

Although the UK is, for the most part, no longer under an obligation to follow future EU rules, it is a mistake to think that the EU's future rules and the direction in which its regulatory model evolves will have no bearing on the UK going forwards. EU rules will continue to shape Britain directly, particularly through the Northern Ireland Protocol and, indirectly, through the extraterritorial effects shaping business incentives and choices. Any attempts by the UK government to wholly de-Europeanise UK law and regulatory frameworks are doomed to fail from the outset. Parts of the UK will continue to adopt EU rules; UK regulators will continue to look at the activities of their European counterparts; UK courts will likely informally consult on similar decisions taken by their European counterparts; and UK businesses will have to comply with relevant EU standards to continue trading in the single market. The UK needs to recognise the reality in which EU law will still affect the UK after Brexit. Rather than denying it, it should proactively engage with regulatory changes on the EU side.

The government should develop a clear strategy for engaging with future regulatory changes on the EU side – it should decide from the outset whether it will choose to voluntarily follow specific areas of EU law in order to prevent future friction. If it does so, it should be open about its choice and make it clear to relevant industries and devolved administrations. This would give businesses greater certainty of the regulatory environment, substantiate the government's commitment to minimising differences with Northern Ireland, and give direction to the British diplomats in Brussels, for many of whom influencing the EU from the outside is much harder than from the inside.

6. Create a more balanced approach to managing divergence with the UK internal market

With the new regulatory responsibilities that the devolved governments hold as a result of Brexit, there will inevitably be a greater degree of policy and regulatory divergence within the UK internal market. While the UK government seeks to minimise any practical divergence with the internal-market

legislation it passed in 2020, and to manage it through UK-wide “common frameworks”, the discretion that the devolved governments have to pursue regulatory policy in a way that deviates from English standards might be effectively suppressed.

It is clear that the UK does need a new framework for its internal market after Brexit, but these arrangements will be a source of permanent friction in political relations between Scotland and Wales and Westminster. But it is equally clear that the current internal-market frameworks are not adequate and pave the way for the weakening, not the strengthening of the union. As put succinctly by Stephen Weatherill in a pamphlet for UK in a Changing Europe: “The Act feeds a narrative of the UK as an involuntary union. The case for independence is simply made: only by breaking free of the UK will regulatory choices made in Edinburgh and in Cardiff truly be respected and truly operate effectively.”³¹

The tensions between internally divergent regulatory choices have not yet been on public display. But they will become apparent as soon as the UK government acts at odds with devolved regulatory preferences – for example, when the UK agrees a new trade agreement that requires different standards, or when the UK government diverges in an area where a devolved government chooses to keep pace with the EU single-market rules. The UK government should, therefore, consider fairer and more balanced arrangements for managing policy and regulatory divergence within the UK internal market that are more sensitive to the diversity of regulatory preferences, without weakening the union.

Developing the UK’s international position as a regulatory actor

7. Set a clear mission and priorities for the UK as an independent global regulatory actor

The UK is now an independent actor in international regulatory policy. It enters an increasingly contested global regulatory environment in which the EU, the US and China compete in setting new standards, particularly at the frontier of new technology. Unlike these countries with vast commercial markets, the UK has more limited market power in which to exert influence over all aspects of international regulatory policy. For the most part, the UK will be forced to choose between one of the global standard-setters.

With the right focus and regulatory diplomacy strategy, the UK can play a meaningful role on an international regulatory plane in two ways:

1. As a regulatory convener in the transatlantic relationship between the US and the EU, offering to bridge some of the long-standing regulatory differences between two major spheres of influence. This is a long-term task but one that should be motivated by the UK’s strategic interest in building a Western alliance to counter the “Beijing effect” – China’s ever-increasing push to set new technological and data standards beyond its borders.

2. As a regulatory leader in a small number of strategic niches where the UK has sufficient critical mass in global markets and regulatory capacity to guide the development of new international standards. This may be in specific technological niches – for example, gene therapies or fusion technology – where the UK is globally recognised as a leader, as well as regulatory aspects of the services trade and financial regulation in particular.

8. Restart active regulatory cooperation with the EU and its agencies

Although there is a strong case for the UK and the EU cooperating on regulatory policy, the TCA falls well short of commitments that reflect the interconnectedness of UK and EU markets, and which could provide a basis for friendly and constructive cooperation. The TCA includes standard provisions aimed at regulatory cooperation, and a small number of sector-specific commitments in areas such as medicines, medical devices and vehicle standards.

It is in the interest of both the UK and the EU to develop more active and long-term channels for future regulatory cooperation between the governments and regulators on both sides. For all their differences over Brexit, the UK and the EU have shared international interests in areas such as fighting climate change and promoting a rules-based international order where they can act to support each other's objectives. For the UK, promoting active cooperation is not about accepting European rules through the back door; it is about promoting the UK's strategic interests. It is also important that regulatory bodies on both sides try to maintain active cooperation as a means of exchanging knowledge and expertise.

Annex: Ongoing and Planned Regulatory Post-Brexit Developments

This list provides an overview of the UK's legislative and regulatory changes relating to EU law and regulatory approach, which were announced before the publication. This is not a fully comprehensive list and does not cover technical amendments to retained EU legislation; secondary legislation; or administrative decisions taken by UK regulators in response to Brexit.

Area	Government initiative	Type	Status	Lead
Agri-food (Agricultural regulations)	Agriculture Act 2020	Legislation	Completed	DEFRA
Agri-food (Agricultural regulations)	Consultation on the regulation of genetic technologies	Consultation	Completed	DEFRA
Agri-food (Agricultural regulations)	New Environmental Land Management scheme	Policy proposal	Ongoing	DEFRA
Agri-food (Animal welfare)	Action Plan for Animal Welfare	Review	Completed	DEFRA

Agri-food (Animal welfare)	Animal Welfare (Sentience) Bill	Legislation	Ongoing	DEFRA
Agri-food (Animal welfare)	Animals Abroad Bill	Legislation	Planned	DEFRA
Agri-food (Animal welfare)	Kept Animals Bill	Legislation	Planned	DEFRA
Agri-food (Animal welfare)	Consultation on improvements to animal welfare in transport	Consultation	Completed	DEFRA
Agri-food (Fisheries management)	Consultation on fisheries' remote electronic monitoring	Consultation	Completed	DEFRA
Agri-food (Fisheries management)	Fisheries Act 2020	Legislation	Completed	DEFRA
Agri-food (Food safety and standards)	Consultation on amending domestic food	Legislation	Completed	DEFRA

	<u>legislation in England</u>			
Agri-food (Food safety and standards)	Review into food labelling	Review	Planned	DEFRA
Agri-food (Plant health)	<u>The Economics of Biodiversity: the Dasgupta Review</u>	Review	Completed	DEFRA
Agri-food (Plant health)	<u>Green Paper on Biodiversity</u>	Review	Planned	DEFRA
Cross-cutting (Competition)	<u>Power to the People: the Penrose Report on competition policy</u>	Review	Completed	BEIS
Cross-cutting (Competition)	<u>Review of the EU retained vertical block exemption regulation</u>	Review	Ongoing	CMA

Cross-cutting (Environment)	Consultation on best available techniques	Consultation	Completed	DEFRA
Cross-cutting (Environment)	Review of UK emission trading scheme free allocation	Consultation	Completed	BEIS
Cross-cutting (Environment)	Consultation on the environmental principles and accountability for the environment	Consultation	Ongoing	DEFRA
Cross-cutting (Environment)	Planning Bill	Legislation	Planned	MHCLG
Cross-cutting (Environment)	Taxation (Cross- border Trade) Act 2018	Legislation	Completed	HMT
Cross-cutting (Environment)	Environment Bill	Legislation	Ongoing	DEFRA
Cross-cutting (Procurement)	Procurement Bill	Legislation	Planned	CO

Cross-cutting (Procurement)	Green Paper and Consultation on transforming public procurement	Consultation	Completed	CO
Cross-cutting (Subsidy control)	Consultation on UK future subsidy control regime	Consultation	Completed	BEIS
Cross-cutting (Subsidy control)	Subsidy Control Bill	Legislation	Planned	BEIS
Customs	Consultation on freeports	Consultation	Completed	DIT/HMT
Customs	National Insurance Contributions Bill (relating to freeports)	Legislation	Planned	HMT
Data protection	National Data Strategy	Policy proposal	Completed	DCMS

Digital regulation	The CMA's Digital Markets Strategy	Strategy	Completed	CMA
Internal market	Internal Market Act 2020	Legislation	Completed	BEIS
International	Sanctions and Anti-Money Laundering Act 2018	Legislation	Completed	HMT
Manufacturing (Medicines and medical devices)	Medicines and Medical Devices Act 2021	Legislation	Completed	DHSC
Manufacturing (Medicines and medical devices)	Medicines and Medical Devices Act 2021	Legislation	Completed	DHSC
Manufacturing (Product safety)	Review of UK product safety framework	Review	Ongoing	BEIS
Networks (Energy)	Nuclear Safeguards Act 2018	Legislation	Completed	BEIS

Networks (Energy)	<u>Consultation on Draft Nuclear Safeguards Fees Regulations</u>	Consultation	Completed	BEIS
Services (Financial services)	<u>Financial Services Act 2021</u>	Legislation	Completed	HMT
Services (Financial services)	<u>Financial Services Future Regulatory Framework review</u>	Review	Completed	HMT
Services (Financial services)	<u>Consultation on Implementation of the Investment Firms Prudential Regime (IFPR) and Basel III standards</u>	Consultation	Completed	HMT
Services (Financial services)	<u>UK listings review</u>	Review	Completed	HMT

Services (Financial services)	Solvency II review	Review	Ongoing	HMT
Services (Financial services)	Consultation on Payments Landscape review	Review	Completed	HMT
Services (Financial services)	Fintech Strategic review (Kalifa Review)	Review	Completed	HMT
Services (Financial services)	Review of the UK Funds Regime	Review	Completed	HMT
Services (Financial services)	Review of framework for non-systemic banks and building societies	Review	Ongoing	PRA
Services (Financial services)	Consultation on Expanded Resolution Regime for Central	Consultation	Ongoing	HMT

<u>Counterparties (CCPs)</u>				
Services (Financial services)	<u>PRA's new approach to non- systemic UK banks</u>	Policy proposal	Completed	PRA
Services (Financial services)	<u>Consultation on new UK MiFID prudential regime</u>	Consultation	Ongoing	FCA
Services (Financial services)	<u>Consultation on implementation of Basel standards</u>	Consultation	Completed	BoE
Services (Professional and business services)	Professional Qualifications Bill	Legislation	Planned	BEIS
Services (Professional and business services)	<u>Call for evidence on the UK's approach to the recognition of professional qualifications and the regulation of professions</u>	Call for evidence	Completed	BEIS

Charts created by TBI with Highcharts unless otherwise credited.

Footnotes

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 8. ^ For a good discussion of the UK Internal Market Act 2020 and its implications for devolved powers, see, e.g., Armstrong, K., 2020, [Governing With or Without Consent – The United Kingdom Internal Market Act 2020](#). Published for the UK Constitutional Law Association.
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 15. ^ Based on TBI analysis of UK trade volumes data for 2018. Source: UN Comtrade
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