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Major companies believe they have Brexit liabilities under control.

While the scale of Brexit and related uncertainty mean it is inevitable that some contentious activity will be triggered by the UK's exit from the EU, most sizeable companies believe they are on top of the key contractual, regulatory and supply chain risks. With the UK Government securing a last-minute agreement on a trading relationship with the EU on 24 December 2020, heading off the threat of tariffs being imposed on UK goods exports, businesses are still getting used to the hard realities of substantial delays at the border and additional costs and paperwork.

As such, smaller companies are seen as more likely to generate disputes and even major plcs are expecting that some litigation will emerge – especially with the torturous debate on access to services having yet to begin. “There will be a few large disputes that come through, but the majority of significant issues should have been addressed by companies,” says Henry Gardener, director of legal at Markel International. “Where you will see more litigation is potentially with smaller companies that haven't had time to model all of the impact.”

But while Brexit may not generate huge levels of disputes, additional pressures on UK businesses already battered by the Covid-induced downturn are only increasing expectations that the decade will be a busy period for insolvency-related litigation. As Kingfisher GC Elizabeth Messud concludes: “When things stop working and people stop being happy, they start looking for places to bring claims. A breakdown in supply routes, together with the contracts not exactly working in the transitional phase and any general economic downturn, could result in potential claims.”

This is an excerpt from an HFW report on the future of dispute resolution. To read the rest of the report, which includes a series of 30 interviews with senior in-house counsel and other leading figures from across the global disputes industry, as well as insights from our expert litigators, visit: www.hfw.com/litigation

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