Confronting the Trade Finance Gap – Legal and Policy Considerations

Prof Jason Chuah, City, University of London

ABSTRACT

Year on year international trade bodies have reported on the problem of trade finance access, especially for SMEs. The matter is poised to take on even greater prominence in the post COVID world. For the UK seeking to push ahead with its "Global Britain" policy, this subject too has been given an unprecedented level of attention. This article seeks first to summarise and contextualise some of the legal and regulatory challenges and constraints and then offer up some practical ideas or suggestions for further concept testing. Although the focus is on reform in the UK, the propositions should be relevant to other jurisdictions, despite differences in legal culture and tradition.

Introduction

There is increasing recognition that access to trade finance by small, medium sized enterprises has become more challenging and constrained. For example, the Asian Development Bank (ADB) reported[1] in 2019 that the global trade finance for that year gap had remained at around $1.5 trillion, nearly 60% of respondents expect the gap to increase over the next 2 years. Meanwhile, small, medium-sized enterprises (SMEs) also face considerable barriers with more than 40% of SME trade finance applications rejected by banks. The reasons for rejection are usually on the basis of failure to satisfy money laundering checks, soundness of business plan and creditworthiness. The gloomy picture is also echoed by a 2018 survey carried out by the International Chamber of Commerce.[2] A similar negative picture is also seen domestically in the UK.[3]

This article seeks first to summarise and contextualise some of the legal and regulatory challenges and constraints and then offer up some practical ideas or suggestions for further concept testing. Although the focus is on reform in the UK, the propositions should be relevant to other jurisdictions, despite differences in legal culture and tradition. Trade finance, after all, is an international issue of concern as the UN, ICC and other international bodies have noted. The matter, post COVID 19, will take on an even greater relevance and significance, globally.

Definitions

[1] Asian Development Bank, Trade Finance Gaps, Growth and Jobs Survey 2019 at http://dx.doi.org/10.22617/BRF190389-2

[2] https://iccwbo.org/global-issues-trends/banking-finance/access-trade-finance/

[3] See generally the work of the All Party Parliamentary Group on Trade and Export Promotion (Homepage | Trade & Export Promotion (appgtrade.uk))

For the purposes of this article, trade finance shall be taken to mean:

- Short term financing (often not exceeding one year) which is essentially linked to the import and export of goods.
- The financing usually provided by banks, though in some countries, also by state backed export credit agencies, development banks, etc.

Trade finance, as defined by the Bank of International Settlements, serves two purposes:

- To provide working capital tied to and in support of international trade transactions, and/or
- To provide a means to reduce payment risk.[4]

A very common trade finance product offered by the banks is the letter of credit. This is a bank backed undertaking to pay the exporter simply upon the exporter's tendering of "conforming" shipping and trade documents. Conforming documents are those required by the bank which show on their face that the underlying contract of sale had been properly performed[5]. The financing bank is not interested in the actual performance of the underlying contract of sale[6] – merely that the shipping and commercial documents required[7] should show on their face satisfactory performance of the trading contract.

Trade finance might be differentiated from trade credit. Trade credit is what the firms themselves are able to offer their trading partners by means of credit. There are several factors that influence the decision of a firm to offer trade credit:

- Creditworthiness of the partner;
- Trust and long term trading relationship;
- Access to guarantees and other risk reducing services offered by third parties (i.e. the intervention of third parties to help pursue the debt or to share the risk of non-payment[8]), such as factoring, receivables discounting, forfaiting;
- Public or private credit insurance;
- Cost and convenience of pursuing the debt in the foreign jurisdiction.

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[4] BIS CGFS Papers. No. 50. January 2014; at p. 1 (Trade finance: developments and issues (bis.org))

[5] ICC Uniform Customs and Practice for Documentary Credits Publication no 600 (2007), art 4

[6] This is the so-called principle of autonomy.

[7] These documents could include the bill of lading, the commercial invoice, the insurance policy or certificate, certificates of quality, certificate of origina

[8] See in particular products such as factoring and forfaiting. In the continent, avalising promissory notes as part of forfaiting is commonplace; this is a very much a paper-based system (indeed the aval as provided for in the Geneva Convention providing a Uniform Law for Bills of Exchange and Promissory Notes 1930, a very old convention pre-dating the advent of electronic digitisation, has not seen much change in use and practice). See Chuah, Law of International Trade (Thomson Reuters), 6th edn, 2019 pp. 676-677.

That last factor is especially relevant to intra EU trading. It is submitted that where there is a perception that recourse to judicial protection of commercial debts is more readily available because of the single European civil justice area, EU (and UK) firms would be more receptive to trading on open account terms (rather than use the letter of credit)[9]. With Brexit, as firms seek to trade more extensively beyond the single European area, ready access to letters of credit as form a trade finance will therefore be especially needful. It should also be noted that trade supply chains are interconnected; most firms are *both* importers and exporters. For example, exporters need to import parts and materials to manufacture their products. This supply chain context which extends beyond European markets makes the use of the letter of credit even more important.

Legal and regulatory obstacles

The following are key *legal and regulatory* obstacles to access to trade finance:

(a) Cost of regulatory compliance following on from proposals under Basel III.
(b) Cost of economic sanctions, money laundering and terrorist financing regulatory compliance.
(c) Legal rules which have not caught up with paperless trade and digitisation.
(d) Regulatory and legal responses to the facilitation of banking procedures and digitisation
(e) Environmental, Social Governance Reporting Requirements

(a) Cost of regulatory compliance following on from proposals under Basel III

There is extensive literature and commentary on the impact of Basel III on the supply of trade finance. The debate seems to be this –to what extent, a bank's exposure to trade finance risks should be accommodated in banking regulation. In fact, both the proponents of Basel III and those who are concerned about the impact of stricter regulation on trade finance broadly agree that losses on short term trade finance portfolios historically have been low.[10]

[9] Ibid, at p. 586
[10] See n. 4 ; at pp. 2, 25

In my opinion, as trade finance portfolios are off-balance sheet, they are quite low risk[11]. – meaning that there is no cash paid out upfront and the cash is only paid out if certain conditions are met (so it is in essence "contingent").

The Basel III reform introduces, for present purposes, two requirements:

- All previously off balance sheet items are to be included when working out capital ratios (that is to say, the entirety of the bank's business is now considered, not merely parts of it).
- A new leverage ratio – this a requirement that so-called tier 1 capital[12] will be needed to support letter of credit business. For a majority of banks, the leverage ratio is at least 3%, or 33:1. For the larger banks, the leverage ratio could be even stricter. Much depends on the weighting given to a particular product. The of letter of credit is to be weighted at 100% in the set formula. If the letter of credit is collateralised, then it is weighted 20%. That means:
    - For a letter of credit priced at £100, the bank must set aside £3 of tier 1 capital to back it.
    - Where that letter of credit is collateralised, then the bank only needs to commit 60p of tier 1 capital in support.

The at-first-blush answer might be to collateralise the letter of credit but whilst that might work for the bank, it makes the letter of credit quite unappealing to the importer. The alternative for the importer would be to pay the exporter directly to avoid the cost and inconvenience, but obviously that means access to trade financing ceases to be a useful option.

(b) Burden of economic sanctions, money laundering and terrorist financing regulatory compliance

The provision of letter of credit is subject to relevant regulations on sanctions, money laundering and terrorist financing. The letter of credit is intended to be an autonomous payment instrument – meaning that the banks or providers should not have to be inquire into the actual outworking of the underlying contract of sale between the exporter and importer. This principle is enshrined in the common

[11] It means that no disbursement is made upfront; the payment is made only if certain requirements are met. Payment is therefore contingent on conditions being satisfied.
[12] This is the consummate form of capital, from a regulator's perspective – it is core capital of the bank and includes equity capital and any disclosed reserves. As such, any bank's provision of services which are to be supported by tier 1 capital becomes more burdensome and costly.

law[13] and the ICC Uniform Customs and Practice on Documentary Credits Publication No 600[14]. However, there is, as to be expected, an overriding legal precept, namely, that the letter of credit cannot hide behind the principle of autonomy and be used to commit a breach of laws on sanctions, money laundering and terrorist financing or indeed any illegal acts[15].

That said, there are four notable problems from a legal perspective.

i. Conflicting sanctions regimes

There are at times conflicting sanctions regimes. For example, when the Trump administration imposed economic sanctions on Iran in 2018, the EU extended[16] its 1996 Blocking Statute[17] to counter those US sanctions. The Blocking Regulation was made in 1996 to "protect **EU operators engaged in lawful international trade** and/or movement of capital, as well as related commercial activities, against the effects of the extra-territorial legislation specified in its Annex" and in 1996 the Annex had referred to Iran, Cuba and Libya. It goes further than "protecting" EU firms and extends to imposing **an outright prohibition** on EU firms (and banks) from complying with US sanctions laws. The practical problem for banks is that they operate across borders and the risk of breaching EU law if they complied with US sanctions law is simply too real for them to commit to offering letter of credit services, and vice versa.

ii. Lack of clarity in stipulations in the letter of credit dealing with sanctions, money laundering and terrorist financing risks.

Banks routinely incorporate, in their letters of credit, clauses exempting them from payment if the letter of credit infringes or potentially infringes sanctions, money laundering or terrorist financing laws. The problem for the exporter (and importer) is that many of these clauses have not been tested in the courts of law and their practical effect and legal scope are

[13] In an English law context, see for example The American Accord [1983] 1 AC 168.
[14] Art 4(a)
[15] See in the context of English law, Mahonia v JP Morgan Chase Bank [2004] EWHC 1938 (Comm); also Group Josi v Walbrook Insurance [1996] 1 LLR 345.
[16] Commission Delegated Regulation (EU) 2018/1100
[17] Council Regulation No 2271/96

not clear[18]. Such clauses clearly run counter to the principle of autonomy described above and whilst it would follow that an English or common law court would construe them narrowly, that does not resolve the lack of clarity for the traders. Moreover, different banks use different forms of words – some highly detailed and others fairly perfunctory and superficial. Thus, from the perspective of the trader such clauses damage the attractiveness of letter of credit-based trade financing.

iii. Regulating the legal role and responsibilities of digital platforms

The use of digital platforms for trade and supply chain finance is an important development but there is frequently a lack of clarity in the regulatory framework as to the legal standing, role and responsibilities of these platforms – especially when these platforms may not have a physical location for the purposes of regulatory control. That is indeed the case in the UK. Thus far the approach has been to encourage self-governance and soft norms setting by the industry. However, there does need proper clarification as to the role and reach of the law, both for the enforcement of contractual rights and responsible behaviour.

iv. Deterrent effect of "Know your customer" (KYC)[19] policies.

Money laundering and terrorist financing regulations rightly impose on banks the duty to verify their customers prior to accepting their business as a first step to fight crime. The Financial Action Task Force and other organisations have identified trade finance based money laundering and terrorist financing as posing a significant risk[20]. It is undeniable that

[18] See for example Chuah, Chapter 11 *"Islamic Letters of credit – Square Peg in a Round Hole?"* in B. Soyer & A. Tettenborn, "International Trade and Carriage of Goods" (Informa Routledge; 2015) which deals with so-called Islam compliant clauses in an "Islamic" letter of credit

[19] In the administrative bureaucratic checks imposed by banks, there is also the "KYG" (know your goods) aspect to consider.

[20] FATF Study on Trade Based Money Laundering (2006) at https://www.fatf-gafi.org/media/fatf/documents/reports/Trade%20Based%20Money%20Laundering.pdf; also Asia-Pacific Group on Money Laundering, Typology report on Trade Based Money

the risk is real (aided by the fact that trade finance is usually premised on the principle of autonomy whereby the banks seek to transact with the customer at arm's length)[21]. From the legitimate trader's point of view, there are some structural and intrinsic obstacles. Small and medium sized enterprises are more likely than large well-established firms to be rejected when KYC and due diligence protocols are applied strictly. Whilst not calling for the KYC and due diligence processes to be relaxed, there are practical measures that could help. For example, following Brexit many firms have been seeking Authorised Economic Operator status from HMRC[22], a scheme is endorsed by the World Customs Organisation[23]. I would suggest that those firms which have been awarded AEO status (covering both revenue and security vetting) could perhaps be given fast track preference by the commercial banks. The sharing of information between banks and HMRC could also reduce the information burden on SMEs.

Banks could also do much to provide clarity and information to SMEs seeking trade financing as to the due diligence process. That would demystify the application and checking processes for the trader and help them respond constructively to requests for information and data.

Another setback is the failure of correspondent banks in less developed economies to meet Anti Money Laundering (AML) compliance standards. That has led to a contraction of the number of correspondent banks being able to advise or confirm letters of credit on behalf of issuing banks from more advanced economies. From an international development perspective, that in turn has a deleterious impact on

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Laundering (2012) and the US GAO, Report to Congressional Senate "Trade Based Money laundering" (2020).

[21] See Chuah, Chapter 14*, "Money Laundering considerations in Blockchain based International Commerce" in* Zhao & Jia, **Maritime and Commercial Law in China and Europe,** (Routledge Informa) (2021)

[22] https://www.gov.uk/guidance/apply-for-authorised-economic-operator-status

[23] The WCO states in its website that, "AEO has become a flagship Customs-Business partnership programme for WCO Members as it offers an opportunity for Customs to share its security responsibilities with the private sector, while at the same time rewarding them with a number of additional facilitation benefits. Partnership programmes with trade allow Customs to achieve more with less effort and aim at ensuring sustainable and long-term compliance through incentives, such as reduced levels of control, simplified procedures, periodic reporting, deferred payment, and reputational benefits, as well as facilitation benefits across borders through MRAs [Mutual Recognition Agreements]". On AEO Mutual Recognition Agreements see Chuah, The EU-China Mutual Recognition Agreement of Authorised Economic Operators (AEOs) – A Paradigm of Customs Cooperation? International Trade Law and Regulation, 2014(4), 86

companies in developing countries accessing trade finance. Direct or indirect[24] contribution, by means of funding and expertise, to the AML compliance training of correspondent bankers in key developing countries could help.

(c) Legal rules which have not caught up with paperless trade and digitisation.

Specific aspects of the law which require updating, in this connection, are:

i. Recognition of electronic records

Although UK law is better than most in recognising that any legal requirement for instruments to be in writing or signed could be satisfied by electronically, some of the legal provisions dealing with negotiability, transfer or assignment of rights represented by the document or signature in question would need clarification. For example, the UK Bills of Exchange Act 1882 provides for the acceptance of a bill of exchange (as commonly encountered in the use of documentary credits as a form of trade finance) to be valid, the acceptance must be "written on the bill and be signed by the drawee"[25]. However, it is unclear how that would be satisfied in a digitised context. Similarly, although the transfer of the rights and liabilities represented by an "electronic bill of lading"[26] is recognised, that is not because the electronic document is treated as equivalent to the paper bill of lading. The latter is a legal *instrument* – mere physical transfer of the document will pass on rights and liabilities to the transferee. To the contrary, an "electronic bill of lading" although called a bill of lading, seems to work legally on the basis that every time a transfer of rights and liabilities is intended, a *new contract* comes into place (called "novation"). A more direct and straightforward recognition of legal equivalence between the paper and electronic document is preferrable, in the interest of clarity and continuity of trade practices.

[24] Indirect contribution might include contributing to the work of the IFC/WTO, Bankers Association for Finance and Trade (BAFT) or the IMF in research, capacity building programmes and regional training courses.
[25] In the UK, see s. 17(2)(a) Bills of Exchange Act 1882.
[26] A shipping document often required by the letter of credit, as signifying due performance of the export contract.

Another area for reform is the notion of a “holder” – the law provides for various rights and liabilities for the holder of an instrument such as a bill of lading or bill of exchange. Often this connotes a person with the possession of the document[27]. That definition could be problematic for the cyber-environment. In blockchains for example there may be many who would have “access” to the electronic data/document in question.

ii. Smart contracts, blockchains and trade finance

Smart contracts should work well with the provision of trade finance and are well placed to support supply chain financing; an increasing use of trade finance. In a smart contract context, the exporter, importer and other participants in the supply chain can rely on the blockchain and will know quite specifically the conditions that trigger payment. The blockchain, like the banks in conventional trade finance, will not have any involvement in the underlying transactions. It will release payment entirely on whether the coded conditions have been met. Those conditions would be strictly defined by the input data. For example, the virtual presentation of the electronic bill of lading, certificates of quality, customs paperwork etc. The blockchain will not question if the contract of sale had actually been properly performed. So long as the electronic papers are in order, payment would be released. There are at least four legal considerations for policy and law makers:

- the legal principles currently applicable to letter of credit (notably the principle of strict compliance and principle of autonomy) may not apply automatically and their scope in the use of smart contracts has yet to be legally tested,
- legal recognition of the “smart letter of credit”,
- how general contract law should complement the use of smart contracts, and,
- how to respond to foreign laws which might render smart letters of credit unenforceable.

The adoption of blockchain technology in joint public and private financing initiatives could be useful in improving the provision of trade finance. In August 2020, the China National Clearing Center

[27] See for example s 2 Bills of Exchange Act 1882; although the definition in s 2 does not expressly refer to physical possession, the natural reading would suggest that possession is concerned with physical possession.

(CNCC), a subsidiary of the PRC Central Bank joined a consortium of three banks (Bank of China, China CITIC Bank and China Minsheng Bank) to apply the trio's current blockchain platform for forfaiting to CNCC's own forfaiting business[28]. As such the upgraded system will be integrated with the PRC Central Bank's (People's Bank of China) large-sum payment system which in turn would lead to greater efficiencies and a reduction in costs for forfaiting and trade financing.

(d) Banking procedures and digitisation

Research shows that corporate banks offering trade finance, supply chain finance and cash management services suffer significant internal process inefficiencies[29]. For various reasons, there has been poor communication and/or duplication in documentary trade processes, between internal and external clients. The matter is exacerbated when there are multiple parties, as is to be expected in trade finance and supply chain financing.

Onboarding processes are inefficient when manual handling is needed and there is no technology-based solution for extracting relevant data from reports. For the customer, the documentary trade processes lack real time visibility over the trade finance product's lifespan.

Communication can be improved by strategic use of AI, cloud technology, blockchain or web-based platforms (where real time activities or transactions are visible) and communication apps. Banks involved in working capital or supply chain financing should also be encouraged to adopt properly tested analytics to identify and prevent client default and improve supplier analysis. In time, better efficiencies could be achieved with AI learning from human decisions in risk assessment, operational matters and compliance activities.

In brief, the legal and policy implications might include:

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[28] https://www.chinabankingnews.com/2020/08/06/chinese-central-bank-applies-blockchain-technology-to-electronic-letters-of-credit/

[29] See https://www.intel.com/content/www/us/en/financial-services-it/solutions/capturing-the-ai-opportunity-research.html; also, Schmidt, Julian, Paul Drews, and Ingrid Schirmer. "Digitalization of the banking industry: A multiple stakeholder analysis on strategic alignment." (2017); Asif, Saadia, and Adrian Sargeant. "Modelling internal communications in the financial services sector." *European Journal of marketing* (2000); PWC (2007): The Internal Control System: The Internal Control System: A Rapidly Changing Management Instrument; Krstic, J. & Dordevis, M. (2012).Internal Control And Enterprise Risk Management– From Traditional To Revised COSO Model. Economic Themes, Vol. 50 Issue 2, p151-166; International Federation of Accountants (IFAC) (2006). Internal Controls—A Review of Current Developments. Professional Accountants in Business Committee International Federation of Accountants.

- The impact of data protection legal requirements should be empirically studied; it might be argued that the bluntness of the EU/UK General Data Protection Regulation (GDPR), for example, as a regulatory tool could well increase inefficiencies in banking documentary trade processes[30]. Trade finance providers are by and large law abiding and would comply with data protection strictures broadly speaking, but this could well be at the expense of opening up access to much needed trade finance for SMEs.
- Initiatives like the US Artificial Intelligence Initiative[31] can assist in building an AI friendly regulatory environment[32] to support better use, visibility and acceptance of AI in SMEs and trade finance providers.
- Encourage and contribute to the development of industry and international technical standards by establishing clear AI governance principles.[33]
- An audit of the laws and regulations which create barriers for AI implementation is vital. The American AI Initiative for example had instigated various federal agencies to review their regulations which presumed legal actors to be human beings – for example, the Department of Transport's development of guidance for AI operated cars, the Federal Aviation Administration's actions to integrate autonomous aircraft into the current regulatory system, the Food and Drugs Administration's work on a regulatory framework on AI based software as medical devices etc.
- Legal clarification of liability – *who* is ultimately responsible for machine-based or blockchain based acts and omissions?
- Legal clarification of the "*place*" where the breach of the law or contract is committed. This is especially problematic for technologies

[30] The debate is of course quite polarised – there are many who see data protection law as not having gone far enough. However, on the regulatory burden of the GDPR, see the many media and web-based blogs on the subject; for scholarly references see Goddard, Michelle. "The EU General Data Protection Regulation (GDPR): European regulation that has a global impact." *International Journal of Market Research* 59.6 (2017): 703; Arcuri, M. C. General Data Protection Regulation (GDPR) Implementation: What was the Impact on the Market Value of European Financial Institutions?. *Eurasian Journal of Business and Economics*, (2020) *13*(25), 1; Yuan, Bocong, and Jiannan Li. "The policy effect of the general data protection regulation (GDPR) on the digital public health sector in the european union: an empirical investigation." *International journal of environmental research and public health* 16.6 (2019): 1070; Negenman, Ebbe. "How the GDPR is influencing risk management." *Journal of Financial Compliance* 2.2 (2018): 142.

[31] https://trumpwhitehouse.archives.gov/briefings-statements/white-house-launches-national-artificial-intelligence-initiative-office/ (January 2021); The American AI Initiative was established by US Executive Order 13859 identified five key lines of effort that are now codified into law. These efforts include increasing AI research investment, unleashing Federal AI computing and data resources, setting AI technical standards, building America's AI workforce, and engaging with US international allies.

[32] The US Secretary of Commerce, through the US National Institute of Standards and Technology (NIST), is tasked under the Executive Order (ibid) establishing the Initiative to issue a plan for Federal engagement in the development of technical standards and related tools in support of reliable, robust, and trustworthy systems that use AI technologies.

[33] See for example the OECD Principles on AI (at https://www.oecd.org/going-digital/ai/principles/)

housed on cloud or at various servers or a blockchain in different countries. The question needs to be resolved for the purposes ascertaining which countries' courts have jurisdiction over an emerging dispute.

(e) Environmental Social Governance (ESG) Reporting Requirements and trade finance

The EU's Taxonomy Regulation[34] requires banks to disclose the extent their businesses are committed to environmentally sustainable activities. In March 2021, the European Banking Authority (EBA) published an opinion recommending that a "green asset ratio" (GAR) should be used a Key Performance Indicator (KPI) for banks. Banks are to disclose their GAR to show the extent to which the financing activities in their banking book (including loans and advances, debt securities and equity instruments) are associated with economic activities aligned with the Taxonomy Regulation and comply with the terms of Paris Agreement and the goals of the SDG[35]. For off-balance sheet exposures (such as trade finance), the EBA recommends that institutions disclose a KPI on the proportion of taxonomy-aligned financial guarantees backing lending exposures and a KPI on the proportion of taxonomy-aligned assets under management for guarantee and investee companies subject to NFRD disclosure obligations.

This proposal, if not proportionate or properly qualified, could have a damaging effect on the provision and access to trade finance. In my opinion, other than raising awareness, the case for climate change benefits **from the regulation** has not been successfully made, given the degree of bureaucracy involved. The focus of the regulation is mainly on disclosure – not the substance of the bank's actual involvement in non-SDG compliant activities. There is an increased risk of "green washing", if not properly monitored. The UK should not commit itself to a similar disclosure regime without proper due diligence and consultation; the utility of a disclosure system which is largely bureaucratic by nature needs to be properly proved by empirical evidence, not mere rhetoric.

[34] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088. Under Article 8(1) of the Regulation, undertakings required to publish non-financial information pursuant to Articles 19a and 29a of Directive 2013/34/EU (the 'Accounting Directive') have to disclose information on how and to what extent their activities are associated with economic activities that qualify as environmentally sustainable under the Taxonomy Regulation. The Regulation entered into force on 12 July 2020.
[35] Sustainable Development Goals

The UK's **qualitative and principles led** reporting system recommended by the Financial Reporting Council[36] expects that the financial reporting should demonstrate the impact of climate change on the company[37], the impact of the business (the trade finance provider in our context) on the environment[38] and financial statements[39]. A demanding requirement of the recommendations is carrying out scenario analysis to test the resilience of the business to different climate scenarios. That will require the onerous task of assembling data from various departments in the company. As regards trade finance, trade finance providers operating across the UK and EU will be subject to both sets of applicable rules – the question is whether the UK should therefore align its climate related reporting system to that of the EU. If the UK does so, it should note that it will thus move from a principle led system to a more methodical and technical system. It is naturally early days to predict the precise impact that would have on trade finance access but involving all relevant stakeholders is a needful first step.

Conclusion

A crucial, but often forgotten, remark to stress is that even though export-import may not be for all SMEs and larger companies, the economy is connected and the loss of trade finance access for those which export and import will impact negatively on the entire economy.

The change agenda is, certainly, substantial and many of the suggestions made here will require proper proof of concept tests. However, given the challenges to get global trade moving again and to promote the growth of SMEs which are critical to the domestic economy, it is needful to triage the problems and resolve them, however, not in a piecemeal fashion but taking a joined-up approach.

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[36] See the FRC, Thematic Review on Climate Reporting, https://www.frc.org.uk/getattachment/6d8c6574-e07f-41a9-b5bb-d3fea57a3ab9/Reporting-FINAL.pdf (Nov 2020)

[37] The FRC wishes to see disclosure of how resilient the corporate strategy is to different global warming scenarios and metrics sufficient to demonstrate progress against both short-term and longer-term goals. The TCFD (the Taskforce for Climate Related Financial Disclosure) is recommended as a useful framework. The TCFD disclosures will be mandatory across the UK by 2025, with listed companies expected to be required to disclose for years beginning on/after 1 January 2021.

[38] Explicit reporting on key metrics (for example, greenhouse gas emissions) and climate-related targets (like a net zero target) is expected. Metrics disclosed should be accompanied by an appropriate calculation methodology.

[39] The FRC's guidance is that if climate risks are alluded to in corporate statements, that the financial statements should provide details on how those risks are met and what