



BREXIT - Implications for Irish Business

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30 March 2017

European Union/ Ireland and the UK - A *Changed Relationship*

- ***“The most significant risk for the Irish economy and Irish business”***
- Far-reaching consequences for Ireland and especially in trade, foreign direct investment, energy and migration
- Ireland has very strong trade, investment and financial connections with the UK. Key points include:
 - €62 billion of trade per year between Ireland and the UK
 - directly employs 400,000 jobs, split evenly between the two states, with many more in the supply chain
 - 15% of all Irish goods, and 20% of all Irish services, exported go to the UK
 - 32% of all goods, and 11% of all services, imported to Ireland come from the UK
 - the UK’s 5th largest market is Ireland - with 5% of the UK’s total goods and 6% of total services exported to Ireland
 - the UK is Ireland's biggest customer for our food exports, and Ireland is the UK’s biggest customer for its food exports



Ireland – “seize the moment”

- Vital that we identify and seize the opportunities
- Our natural caution and sensitivity must not be overdone
- Others will not stand back: France, Luxembourg, Netherlands, Poland
- UK will not regard us negatively for taking our opportunities
- We have a compelling offering
- Financial services - challenges to London’s competitive advantage(s):
 - big impact on freedom to provide services to post-Brexit EU & rights to establish businesses there
 - difficult for the City to retain/achieve leadership in certain European markets from outside EU
 - some Irish solutions to a number of potential issues that could arise for the UK investment funds industry
- Manufacturing, Pharma and FDI opportunities exist
- EU agencies now in UK, such as EMA, will likely be relocated to alternative EU location – Dublin is an attractive alternative



Impact for Irish Companies & Business

- Loss of passporting regime in the offering and trading of equity & debt securities will lead to difficulties and increased costs for Irish companies
- Stakes are high for our exports and imports (food & drink) industries:
 - the overall result being increased costs for consumers
 - main impact in Ireland will be the potential re-introduction of custom procedures, borders and possibly even tariffs
 - UK free to look to non-European suppliers. Fierce competition in meat industry from New Zealand & Brazil could see Irish produce suffer
- Data protection & IT: For those operating in UK, Brexit will remove the current legal certainty and predictability
- Could impact some occupational pension schemes, employee share plans and pension products



Identifying and Combating your Business Risks

- Establish a Review Team
- Brexit now goes to the top of many companies' business risk list
- Trade, foreign direct investment, energy
- Banks, financial institutions, asset management
- Group members – loss of access to EU internal market?



Review Team – General Questions

- How reliant is our business on the UK or UK-based counterparties?
- How many of our UK or UK-based counterparties are, in turn, reliant on EU business, support, grant aid, counterparties?
- Will the change in the UK regulatory environment affect, interrupt and/or expose our business?
- Will our funding (sources) need to be revised?
- Will our cost of funding be impacted?
- What is our position/exposure in relation to sterling? And will we need to change our currency exposure(s)?
- Will any material contracts require reworking or revision
- Are there any potential serious 'hits' or exposures for the company in existing contracts resulting from Brexit?
- Do we need to review investment decisions taken or consider future investment decisions differently?
- What, if any, employment, visa, etc. impact(s) will there be for us?
- What sector specific issues are there for us?



Review Team – Legal Questions

- **Market access:** will our business require new, alternative or additional authorisations, licences, etc.?
- **Banking and lending:** loan and credit documentation, security and guarantees, should be reviewed
- **Derivative transactions:** in the short term, is there a requirement to provide collateral where values fall dramatically? In the longer term, the non-application of the EU directive on financial collateral arrangements may raise many issues
- **Financial services, asset management, funds:** possible significant changes to both the structure of transactions (as a result of the loss of passport rights) and documentation reflecting revised and/or new legal and regulatory framework(s)
- **Mergers & acquisitions:** although underlying company law may not change very much, the competition law regime will change and this could be important in a number of deals. There may also be a risk of future dual regulation being applicable
- **Companies and corporate transactions:** underlying law may change a little but areas such as employment, pensions, health and safety, IT and data protection will all require consideration
- **Employment:** what is the position for our employees working here and in the UK? Continuing rights?
- **Commercial dispute resolution:** because the UK will no longer be a part of the EU, review governing law, jurisdiction and arbitration provisions when entering into new contracts with cross border elements
- **Environmental and energy:** Brexit will mean the EU energy and environmental directives and regulations will no longer be applicable to the UK or UK businesses. The impact on existing and future contracts could be considerable
- **Restructuring and insolvency:** a potentially difficult area. The automatic direct effect of the Insolvency Regulation in the UK will end and, while it is likely that it will be replaced with a similar legislative regime, that will require change to both UK law and EU law



Certain other implications of Brexit for Business

- **Tax:**
 - Greater impact on Irish resident companies than on companies resident in other competing jurisdictions
 - Brexit will permit UK to operate VAT other than in accordance with EU rules - implications for Irish business
 - UK may offer tax and other incentives to businesses based in UK – thus, more difficult competitive environment for Irish businesses operating in the UK
- **Employment:** creates the prospect of significant areas of law in UK, which are derived from EU legislation, being abolished or amended
- **Environment & Planning:** any new or revised legislative or regulatory regime adopted by UK could impact both the State's and private businesses' interests and investment decisions



Litigation/ Disputes – “There could be trouble ahead...”

- No longer a ‘passporting’ right to automatic enforcement
- As between Ireland and UK – would have to rely on common law rules for enforcement
- Inconsistency between the powers of Irish and English courts
- Potential for disputes regarding jurisdiction and enforceability
- Parallel litigation
- Balance of risk in commercial contracts could change in unintended ways
- Taking of evidence could be impacted
- Potential upset to cross-border enforcement and claims
- Loss of criminal mutual assistance measures
- Changes to contractual provisions



Ireland's Advantages as a Financial Services Location

- Our advantages include the facts that Ireland:
 - is a long-standing, deeply committed EU member state;
 - is a member of the Eurozone;
 - is a common-law, English-speaking country, with a stable system of government within the EU;
 - has a well-educated, flexible and diverse work force and is ranked as a top business destination;
 - has a well-established financial services sector;
 - is home to an array of professional services firms;
 - has a regulator of the financial services sector, the Central Bank of Ireland (CBI), a tried and tested regulator, which is deeply embedded in the EU's supervisory and regulatory system;
 - has made its business migration system from EEA countries more 'business friendly' in recent years; and
 - has significant amounts of commercial office space coming on stream over the coming months, capable of accommodating in excess of 20,000 persons.

Legal implications of withdrawal for the UK

- Much of the law derived from EU is hugely important to UK economy:
 - EU treaties, directives, directly effective decisions & regulations, and rulings of the ECOJ will cease to apply to UK, unless effect is specifically preserved by UK law
 - Thus, UK will have to:
 - ▶ **Replicate** – preserve existing EU law in new domestic legislation
 - ▶ **Reform** – amend existing EU law in divergent domestic legislation
 - ▶ **Repeal** – scrap existing EU law - deregulation
 - The EU courts will no longer have jurisdiction over the UK, and UK citizens will no longer have the rights of EU citizens
 - EU agencies that are based in the UK, such as the EBA and EMA, will presumably be relocated to an alternative EU location
 - Organisations and projects supported by EU funding will be uncertain



Long term implications

- ***“Britain’s historic vote to leave the European Union is already threatening to unravel a democratic bloc of nations that has co-existed peacefully together for decades. But it is also generating uncertainty about an even bigger issue: Is the post-1945 order imposed on the world by the United States and its allies unraveling, too?”***
 - New York Times
- Long term implications for Ireland, remaining EU member states and UK cannot be known at this time
- However, it can be said that it is very likely that:
 - legal and regulatory divergence in many trade and business sectors will increase over time, and
 - the impact on some sectors could be marked affecting investment and trading in significant ways
- EU will be a different organisation



How can we help you at this time?

- Help establish/work with your Review Team
- Help identify the right questions and areas of review for your business
- Help review material contracts and regulatory position(s)
- Help prepare papers for Board consideration
- Help implement business and structural changes

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Thursday, 30 March 2017 | Brexit – Implications for Irish Business

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