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Early Post-Brexit Considerations for International Business

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As the UK and the European Union (EU) move forward with negotiations of their post-Brexit relationship, there are uncertain consequences, challenges and opportunities facing businesses with ties to the UK.

The exact date and time of departure is still uncertain because it depends upon when the UK Government triggers the exit procedure under Article 50 of the Lisbon Treaty. Now that a new Prime Minister is in place, this process will soon begin. However, there will still be a two-year disengagement period during which current EU legislation will apply.

Drinker Biddle's [International Group](#) offers the below comprehensive perspectives regarding Brexit implications for international business in the following areas:

- Trade with the UK
- Data Transfers
- Intellectual Property
- Investment Management
- Environment & Energy
- Insurance

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Trade with the UK

When contemplating the UK's future trade relationships with its trading partners, there is perhaps some comfort in knowing that for the foreseeable future, EU laws take precedence over UK laws. This is a requirement dating back to the original treaty establishing the European Economic Community (EEC) in 1957 and re-affirmed in many subsequent EU treaties. Further, the European Communities Act 1972 remains in effect throughout the UK and, as a result, the UK remains subject to its provisions and obligations, at least until the UK provides formal notification of its intention to leave the EU thereby commencing a two-year wind down before its formal withdrawal. While former Prime Minister David Cameron had openly expressed a desire to move forward slowly with the separation, Germany and France, the two most influential member states, prefer to hasten the UK's departure from the EU. New Prime Minister Theresa May has stated her intent not to commence disengagement before the end of this year.

In contrast, the UK's relationship with the United States is expected to remain strong and not significantly affected by Brexit. On trade, President Obama earlier this year signaled his unyielding and ongoing support for the Transatlantic Trade and Investment Partnership (TTIP) Agreement with the EU; however, contemplating the UK's exit from the EU, he cautioned that it might take five years or more for the UK to negotiate its own trade deal with the U.S. Given the current protectionist rhetoric emanating from the U.S. Presidential race, this time period could actually become far more protracted and stymied due to legislative roadblocks and increased friction in global markets.

The Long Haul Ahead for the UK and Free Trade Agreements

The UK is currently a party to free trade agreements only through its membership in the EU. Therefore, the UK will need to renegotiate separate agreements with those countries with which it would like to have trade relationships. Additionally, the UK will no longer be part of the EU single market. To receive preferential access, it will likely have to negotiate either a bilateral free trade agreement with the EU or join another multilateral trade bloc that has an agreement with the EU, such as the European Economic Area (EEA).

The EEA currently includes Norway, Iceland, and Liechtenstein. Joining the EEA would mean accepting all EU rules governing the goods and services trade and the "four freedoms." The "four freedoms" include: 1) the free movement of people, 2) the free movement of services and establishment, 3) the free movement of goods, and 4) the free movement of capital. Joining the EEA would also include paying certain amounts into the EU budget, but at possibly lower rates than its current contributions as a member state. However, given the recent success of the

Brexit vote, UK leaders are not likely to jump quickly on the EEA bandwagon.

There is another option that would allow the UK to obtain preferential access to the EU market, such as the relationship Switzerland maintains with the EU. The relations between Switzerland and the EU are framed by a series of bilateral treaties (roughly 120) where Switzerland has adopted various provisions of EU law in order to participate in the Union's single market. Switzerland does face some agricultural tariffs unlike the EU member states, but still has to accept the free movement of people. Switzerland also regularly adopts EU rules and regulations, even in the cases where it has no obligation to do so, because its market is so closely aligned with the EU single market. Not only could this approach take almost ten years, but also it is uncertain whether individual EU states will agree to such a unique relationship again. Further, a number of restrictions on trade could still linger with respect to rules of origin, trade remedies and trade in services.

Should the UK not be able to secure preferential access to the EU single market, its commercial relations with the EU will be governed by World Trade Organization (WTO) rules. Any preferential access to the single market could trigger challenges from other trade partners of the EU, who would protest this preferential treatment under the most-favored-nation principle set by the WTO. The UK may also have to renegotiate its membership in the WTO, since it joined as a member of the EU. This includes renegotiating its tariffs and the trade of goods and services. The EU has secured specific tariff rates and rights for the trade of goods and services in the WTO for its member states.

The UK's membership in the EU also directed its export controls. However, the EU is not a party to the Wassenaar Agreement, each of its member states are parties individually. Thus, the UK's obligations under Wassenaar will not change and neither will its Control Lists, since Wassenaar is the source, via the European Council, for those lists. Moreover, the European Council also established the EU framework for export controls, but left principal authority with member states to implement their own control regimes. Therefore, it is likely that the UK's export control regime will not be impacted greatly. However, it is possible that the current sanctions in which the UK participates may change. The UK has implemented certain sanctions as an independent signatory, such as the Joint Comprehensive Plan of Action (JCPOA) with Iran, but others as a member of the EU.

What to Look for in the Days Ahead

As noted above, it remains unclear the pace at which things will proceed in the UK post-Brexit. For the time being, the ball is in the UK's court to kick off the process via a formal notification of its wish to withdraw from the EU. In the meantime, for global traders, so long as the status quo prevails, trade and commerce can proceed unabated by any rule changes. Further, in the European context, not much is likely to change in the years ahead regarding trade between the UK and the EU, provided the UK obtains preferential

market-access to the EU, similar to that enjoyed by Norway and Switzerland. This should not be considered a foregone conclusion, however, since the EU would likely frown on any deal with the UK that would have the unintended effect of prompting other member states to leave the union in the hope of negotiating a better deal outside the union.

It is also important to keep in mind some of the practical implications of the UK's departure from the EU. The UK first joined the EU in 1973. Since then, the EU assumed exclusive control over international trade, including support for trade liberalization, the negotiation of free trade agreements, the assessment of tariff rates and imposition of trade remedies. Once the UK sheds its association with the EU, it will be deprived of the preferential duty rates extended to EU member states under current EU trade agreements with non-aligned countries. Moreover, the UK will need to develop quickly the administrative framework to not only grow and facilitate cross-border trade with its trading partners, but also to initiate or defend against trade defense investigations and mechanisms that may impact British business interests. Once again, the UK will find that it does not have autonomy in such matters, but instead it will need to be guided by the WTO's myriad of import and export laws.

Both importers and exporters who conduct trade with British domestic companies should monitor closely upcoming developments as the UK progresses towards its exit from the EU. For exporters, it is uncertain to what extent the UK will depart from, or coordinate with, the EU export controls regime. The same is true regarding the UK's future reliance on trade restrictions in the form of sanctions and embargoes. For importers, there is the ever-present concern of increased and costly regulations in the form of product standards and labeling requirements. So, too, for certain industries there will be the added burden of having to deal with both UK and EU regulators and, over time, potentially divergent regulatory dictates. Possibly the most vexing aspect of the UK's exit from the EU will be compliance with country of origin rules. If future trade between the UK and the EU is governed by a free trade agreement, rather than a customs union, a company's supply chain will likely need to contend with potentially inconsistent rules of origin on imports into the UK and the EU member states. ■

Data Transfers

Because the UK plays such a critical role in the data transmission strategies of multinational businesses in the EU, there are a number of key issues to consider regarding data transfers to the United States and/or the UK. However, keep in mind that while these issues must be considered, they will come into play gradually given the overall pace of the UK's disengagement from the EU. Therefore, these issues should be kept in mind over the next months and years as the disengagement is negotiated and then implemented so as to avoid any unnecessary surprises:

First, all data transfers from remaining EU members to the UK should be identified and examined to be sure the Data Protection Directive and local laws are being satisfied.

Because the UK will no longer be a member of the EU, unless the UK joins the EEA, transfers thereto will no longer be legal absent a specific finding of "adequacy" by the EU Commission as to UK data protection jurisprudence. Therefore, businesses should monitor how this issue is addressed during the disengagement negotiations to be conducted over the next two years and to craft strategies appropriately – both within the contexts of the Data Protection Directive but also the General Data Protection Regulation (GDPR). In this way, sudden modifications of data flows and compliance programs will not be necessary, and massive disruptions of data processing systems avoided.

Second, any data transfers from remaining EU members to the U.S. directly but that include the UK in the data flow should be reviewed to be sure that the Data Protection Directive and local laws continue to be satisfied – both now and after the final implementation of the GDPR. This is particularly important given that several EU members remain very vocal critics of the newly-approved Privacy Shield and have threatened to tighten their local regulations applicable to overseas data transmissions – namely, those to the U.S.

Third, it is critical to realize that the new General Data Protection Regulation (to replace the Data Protection Directive in May 2018) will have a direct effect on member states without the need for domestic implementing legislation (as with the Data Protection Directive). Thus, this entire area of EU law applicable in the UK due to its member status will have to be replaced by UK law very soon so as to give business operating in the UK adequate notice of how and when to modify their compliance protocols so as to meet all applicable regulations and requirements. As a stop-gap measure, it may be necessary for the UK to implement measures adopting the GDPR as if it is part of UK law. Given the uncertainty in this area, it is important for businesses to closely monitor this issue over the coming months.

To sum up, it is critical for U.S. companies doing business in the EU and the UK to understand their current legal obligations and to be ever-vigilant regarding the evolving legal standards to emerge from the UK disengagement process so as to avoid any unnecessary surprises. ■

Intellectual Property Protection

There are also a number of important issues to note going forward with regard to intellectual property protection issues.

First, current EU trade mark law and protection standards will still apply during the upcoming two-year disengagement period. Thus, no shifts in prosecution strategies should be necessary.

Second, for the foreseeable future and during this two-year disengagement period at least, any EU Trade Mark

registrations or applications will still extend to the UK. Thus, as above, no shifts in prosecution strategies should be necessary.

Third, while the ultimate endgame of this situation remains unclear, it is likely that once the UK does finally leave the EU, an applicant for an EU TM application/registration will be able to “convert” the “UK portion” of that application/registration into a UK national application or registration, while retaining the original priority from the EU TM submission. Businesses should continue to monitor this developing situation as conditions evolve.

Fourth, an existing UK Trade Mark registration or application will be unaffected by the UK’s departure from the EU.

Thus, in view of the foregoing, the UK Government’s negotiations with the EU over the UK disengagement should be closely watched, particularly as to the handling of IP rights and responsibilities.

However, with the above considerations in mind, companies doing business in the UK should consider the following points with regard to IP protection considerations.

Companies who are considering filing an EU TM application should also consider filing a UK trademark application to ensure they have protection extending to the UK for the future.

Currently, under the EU single market principles, goods that would not infringe a trademark registration elsewhere in the EU, which are imported into the EU as “grey goods,” would not infringe a UK trademark registration in certain circumstances. If as part of your business, you import such goods, you should be aware that this provision will no longer apply once the UK leaves the EU and does not, for instance, become a member of the EEA.

Allowing for the current uncertainty over the transition of rights from an EU TM application/registration, impacted companies should review their trademark portfolio. If a mark is of key importance to a company, it should consider in due course whether to file a UK trademark application to ensure that it will have protection extending to the UK once the UK leaves the EU. ■

Investment Management

MiFID Implications

The impact of Brexit on Europe’s alternative asset manager is expected to be substantial, with over 80 percent of them reportedly located in the UK. As a result of Brexit, many UK managers (including UK offices of global firms) will be unable to use the European Union Markets in Financial Instruments Directive (MiFID) passport. Passports have been used by many managers both within and outside the UK to conduct their businesses on a pan-European basis by,

for example, establishing a London office and “passporting” their business into other EU Member states. The MiFID “passport” enables firms authorized in one member state to provide services to clients in other member states, either on a cross-border basis or through the establishment of a branch, without needing to seek local authorization in each jurisdiction. Following Brexit, UK firms will likely generally need to seek local authorization or establish an EU presence to obtain the passport. It also means that EU firms that currently provide services to clients in the UK or who have established UK branches will no longer be able to rely on the passport to do so.

AIFMD Implications

Unlike MiFID, the Alternative Investment Fund Managers Directive 2011/61/EU (AIFMD), which creates a single European Economic Area (EEA) regulatory framework for managers of alternative investment funds (AIFs), does allow for a passport for third-country managers in jurisdictions with demonstrated equivalent legislation. Under the AIFMD, non-EEA managers may be able to use the AIFMD passport if they are regulated by a jurisdiction that is deemed AIFMD equivalent. However, the ability and willingness of the UK to maintain equivalent legislation in light of the Brexit vote is unclear at this time. In fact, it is likely that after Brexit, the UK could widely favor a less stringent regulatory regime—making it less likely that its regime would be deemed equivalent. The UK may also introduce a dual regime, with one regime being equivalent to the AIFMD for managers who are interested in being able to take advantage of the EU passport, and another local and presumably less stringent from a regulatory perspective regime for managers who do not wish to do so. In addition, if the UK does become a member of the EEA, it is likely that the AIFMD will continue to apply to UK Managers and their funds.

Implications for UCITS

Managers of UCITS funds, which are effectively European equivalents of U.S. mutual funds sold to retail investors, are likely to find themselves in an even more complicated position. UCITS funds are regulated at the EU level under the UCITS Directive and are required to be EU domiciled and managed by an EU manager. As a result of Brexit, UK UCITS will no longer fall within the scope of the UCITS Directive, and would therefore be unable to market themselves to retail investors in other EU States. However, similarly to AIFs, UCITS funds may be able to comply with the AIFMD regime and be marketed into the EU under the AIFMD’s national private placement regimes to non-retail investors. In addition, since UK-established UCITS funds will no longer fall within the scope of the UCITS Directive, managers of such funds and other funds and investors investing with them may need to consider other requirements of the Directive that may affect the core of their investment strategies and their investor base, such as prohibitions or restrictions on investing in non-UCITS funds.

Employment Implications

A very important issue for the post-Brexit world is the free movement of people. In addition to passporting issues, asset managers with a UK and international footprint may be affected in a variety of other ways, including with respect to their employment agreements with portfolio managers and other employees, new regulatory restrictions on their abilities to retain such employees and, therefore, their ability to implement their investment strategies and to do business with their service providers, as well as the managers' overall compliance and regulatory obligations.

Disclosure Implications

Managers that are registered with the U.S. Securities and Exchange Commission and doing business in the UK will need to consider their disclosure obligations as they prepare and update their disclosures to their investors and clients, including the disclosures contained in their Form ADVs and the risk factor disclosures in the offering documents and prospectuses of funds that they manage. Managers with greater exposure to the UK markets may need to have more robust disclosures and in each case these disclosures should be tailored to the firm's own operations. Managers cannot presume that their clients and investors could independently assess the impact of Brexit on the managers' businesses, prospects and operations.

Overall, the affected managers will need to engage in a further and more detailed review of how their businesses may be affected by the vote to leave the EU, the actual UK departure from the EU and the related developments. Furthermore, managers may need to engage in communications with their service providers, clients (including through a disclosure of the impact) and regulators to further address the new developments and, potentially, consider other markets that can provide additional opportunities or perhaps the comfort or stability of existing regulations.

Market Implications

The Brexit vote has immediate consequences for financial markets across the world, including the asset management industry, even though the regulatory consequences of Brexit are still uncertain. In that regard, the UK continues to be a member of the EU for the time being until it makes its departure official, likely in 2018 or later. A growing number of UK property funds have suspended redemptions because of significant and prompt declines in asset valuations of commercial real estate. Brexit-related volatility in financial markets could also have a significant impact on valuations of existing derivatives contracts, which could in the extreme case be similar to that of 2008.

On the bright side, Brexit may create additional economic opportunities for asset managers looking to operate in a less stringent regulatory environment, to expand their

client base in the UK or to simply take advantage of the temporary dislocations in the stock market. ■

Environment & Energy

Uncertainty for Energy Policy and Regulation

UK policies and regulation supporting action on renewable energy and climate change face uncertainty and delay. While many renewable energy companies have not publicly announced their feelings about Brexit, the lack of clarity surrounding the UK's agreements with the EU's internal energy market (IEM) is causing these companies to take a step back and review their UK operations.

Investors in the UK's energy sector view participation in competitive Euro-markets as a key source of value. If post-Brexit bilateral arrangements are less favorable than the status quo, and if Brexit leads to the UK's exclusion from the IEM, the costs of raising finance in the UK energy sector will rise. A major short-term risk Brexit poses is that energy companies will need to offer higher returns to attract investors to the UK's energy sector.

Electricity Markets and a Unified Electric Grid

Brexit could also stall efforts to create a unified European electric grid that connects the UK with other European countries. The EU envisages an international electric grid that will entail installation of major, high-voltage subsea cables/transmission lines between the UK, Northern Europe, and Scandinavia. This broad-reaching electric grid will permit integration of large amounts of renewable energy into the transmission system and further integration of the UK within the European electricity markets.

According to a March 2016 report by Vivid Economics commissioned by the British grid operator National Grid, trade in a combined energy market with other countries would promote competition and lower prices. Brexit may cause construction to slow and costs of new UK electricity interconnections to rise. If the UK cannot negotiate for its continued inclusion in a common European energy market or cannot secure bilateral agreements for energy integration with its neighbors, electricity prices in the UK could rise. Centrica and SSE, both utilities and two UK-owned members of the UK's "big six" utilities group that also includes E.ON, RWE, EDF Energy, and Scottish Power, have indicated the importance of the UK's continued participation in integrated, competitive markets. If the UK is not included in these markets, they fear the UK will lose its position as a driver for competitive European markets, and will cease to be a voice to which other EU countries will listen.

Impact on Support for Renewable Energy and Response to Climate Change

Recently, the UK's Department of Energy & Climate Change (DECC) pledged to maintain its climate change targets, but whether the UK stays on track to reach these targets remains to be seen, particularly with Prime Minister Theresa May's disbanding of DECC.

Previously, DECC's Secretary of State for Energy and Climate Change, Amber Rudd, reaffirmed the UK government's unwavering commitment to build a low carbon infrastructure and to deliver affordable clean energy to families and businesses. Rudd recognized that investors, businesses, and the UK's citizenry are concerned about the UK's continued climate change reduction measures. To allay these concerns, Rudd has stated that Brexit does not alter the UK's energy and climate change challenges. She also has reiterated DECC's pledge to proceed with climate change initiatives, consistent with the UK's Mission Innovation obligations and its other duties under the Paris Agreement negotiated at COP 21, the 2015 United Nations Climate Change Conference.

Under these existing policies, companies and universities with ties to the renewable energy sector have the opportunity to help positively shape the UK's renewable energy future. As part of its Mission Innovation responsibilities, the UK has promised to double its central government spending to over \$600 million by 2020/21 on clean energy technology research, development, and demonstration projects.

The Breakthrough Energy Coalition, a broad group of private investors that includes Bill Gates, Mark Zuckerberg, and Jeff Bezos, has already committed to invest and contribute to these efforts. The Coalition's funding will help foster a scaled-up public research pipeline linked to different types of clean energy projects. UK universities and companies will receive this funding for initiatives encouraging creativity, ingenuity, and entrepreneurship in designing technological innovations for the renewable energy sector. Currently, Mission Innovation projects include developing a small modular nuclear reactor and new smart energy systems.

To date, the UK has made impressive progress on its commitment to renewable energy and meeting global climate change. For instance, during 2014, 30 percent of all new European renewable energy projects occurred in the UK. Also, since 2010, the UK's investments in renewables increased by 42 percent due to the UK's implementation of the Climate Change Act of 2008. This act and numerous other environment-related laws were enacted to affect EU Directives, such as the EU's Renewable Energy Directive, Habitats Directive, and Wild Birds Directive, but remain in full force unless the UK government modifies or repeals them. Thus EU policies covering topics including environmental impact assessments, environmental

permitting, energy efficiency, air quality, water, and waste, remain British law.

Prime Minister May has merged DECC with the department of Business Innovation and Skills (BIS) into a new ministry called the Department of Business, Energy and Industrial Strategy. Because of this merger, Brexit has raised fears that the UK government may reduce its support for renewable energy development. Greg Clark, the Secretary of the new ministry and former Communities Secretary, has already announced that he is thrilled to head this new department and lead the UK government in furthering its efforts to deliver clean energy and address climate change. DECC's abolition has led to mixed public sentiment. Some believe that the new ministry's name—which no longer has "climate change" in its title—will not impact the ministry's purpose, due to Clark's appreciation of the benefits of having the UK develop a low-carbon economy. Others believe DECC's abolition is troublesome and is a serious backwards step that heralds the government's view of climate change as a low priority item. Already, the public has called for Theresa May to reaffirm the government's commitment to the Climate Change Act and to reassure businesses that climate change has not slipped to the bottom of the government's agenda.

Prior to DECC's disbandment, the Renewables Consulting Group published a report indicating that Brexit threatens the UK's ability to meet its 2020 and 2030 renewables targets. If the UK government disavows the UK's 15 percent renewable energy use by 2020 target set by the EU Renewable Energy Directive, this target could fall by the wayside. Also, the UK government has recently scaled back subsidies for both utility scale and distributed renewable energy projects. The UK government may also re-examine pending closures of conventional power plants destined for retirement at the end of their lives under the EU Industrial Emissions Directive (2010/75/EU – IED), which imposes strict pollution emissions limits.

Offshore Wind Market

The UK's robust offshore wind industry may also be hurt by Brexit. According to the European Wind Energy Association, as of fourth quarter 2015, the UK possesses Europe's largest and most advanced offshore wind industry, whether measured in terms of number of wind farms, number of turbines, and installed capacity (in megawatts). It is unclear how Brexit will impact future investments in the UK's offshore wind market. The answer partly depends on whether the UK's big six utilities pick up the funding of UK offshore wind projects where the government leaves off.

Doubt about the UK offshore wind market's fate has already prompted leading offshore wind companies to freeze certain of their UK efforts. For instance, Siemens, a large German company and major player in the global offshore wind markets, owns the UK-based Green Port Hull wind turbine blade manufacturing facility. Nevertheless, Siemens has halted its plans to expand its UK offshore wind export operations until the UK's relationship with other European

nations is clarified. EDP Renováveis, the developer of the Telford, Stevenson, and MacColl offshore wind farms in Scotland's Moray Firth, announced that Brexit could complicate authorization of this 186-turbine project. The next round of UK offshore wind project development could be postponed, unless the UK government acts to protect its offshore wind sector.

Natural Gas

While short-term risks in the natural gas area appear minimal, long-term risks could materialize. Natural gas markets are already well-integrated between the UK and Europe, with small price differentials and no congestion issues. Brexit, though, could cause the UK's exclusion from the EU's "solidarity principles" that require European countries to supply natural gas to their neighbors when a gas supply crisis arises. This could increase security risks for the UK's future natural gas supply. ■

Insurance

As noted above, while the UK voted to leave the EU, uncertainty still abounds—as to timing of the exit, as to what EU treaties and legislation will continue to apply, and in some circles even uncertainty as to whether the result of an "advisory referendum" truly binds the UK to leave the EU. However, now that Prime Minister Theresa May has confirmed that "Brexit means Brexit," there are certain points that UK and European re/insurers should consider.

Many UK insurers, reinsurers and intermediaries currently provide services throughout Europe on a "passporting" basis without having to obtain a license in each member state. If these passporting rights are not preserved following Brexit (which some say is unlikely), then re/insurers and intermediaries would do well to begin looking at alternative routes for doing business with Europe. The sooner these options are considered the better, as some potential solutions, such as establishing another subsidiary in Europe or redomiciling to another European country, would take some time.

Solvency II means that some other jurisdictions outside of Europe are now considered "equivalent" for insurance and reinsurance purposes—and Europe continues to evaluate more countries throughout the world for equivalence purposes. Because Bermuda is considered equivalent, an insurer with a platform in both London and Bermuda could perhaps use its Bermuda platform to transact EU-situs business rather than its London platform.

Brexit does not mean an automatic repeal of UK insurance laws and regulations. Most observers believe it is likely that the UK will strive to maintain its equivalence under Solvency II and, if so, that means that most of the current UK insurance regulatory structure is likely to remain in place—and therefore, at least as of today, it appears Brexit is unlikely to have a significant regulatory impact on UK domestic insurance business.

Enforcement of court judgments between EU member states is automatic under EU regulations, but without a

reciprocal agreement, UK re/insurers may have a more difficult time enforcing their judgments in courts of EU countries once Brexit becomes effective.

In contrast, arbitration will be unaffected by Brexit because the UK and EU member states are signatories to the New York Convention.

Service of process between EU member states is also governed by EU regulations, and if no equivalent arrangement is established with respect to the UK, then the UK may revert to the Hague Convention, through which service of process is more time-consuming as well as more expensive. UK insurers may wish to consider requiring European counterparties to appoint a UK agent for service of process.

U.S. re/insurers doing business in the UK, and UK re/insurers doing business in the U.S., are unlikely to see any significant impact from Brexit. UK insurers currently approved as "surplus lines insurers" in the U.S. may continue to write U.S. insurance business as usual; Brexit does nothing to change this. UK insurers with branches in the U.S. who write admitted insurance business may likewise continue to do so. Non-U.S. reinsurers, whether based in the UK or elsewhere, with "certified reinsurer" approvals or some other U.S. credit for reinsurance status, e.g., as "trusted reinsurers," retain those approvals despite Brexit. U.S. insurers may still establish branches and obtain authorization as insurers in the UK—but they cannot "passport" into the rest of Europe—nor could they before Brexit.

For the past year or so, EU and U.S. trade negotiators have been exploring a so-called "covered agreement" that would address various re/insurance regulatory issues, including but not limited to reinsurance collateral, and would cover the entire EU. Should this agreement come to fruition, we would expect that UK and U.S. trade negotiators will initiate their own covered agreement talks seeking to establish an identical arrangement, whether standalone or as part of larger bilateral trade negotiations.

The UK-U.S. Double Tax Treaty remains in effect. Tax rules are not changing (anytime soon). ■

Conclusion

While these considerations regarding Brexit implications are important, it worth noting that uncertainty still abounds. The UK government's promise to begin exiting the EU has triggered a number of legal proceedings asserting that the government cannot begin formal proceedings to leave the European Union without parliamentary assent. While many would consider the success of these challenges to be unlikely, it is important to monitor their progress and their ultimate rulings. Once Article 50 is invoked, the UK will still have two more years to renegotiate its relations with the bloc. Prime Minister Theresa May has ultimately confirmed, however, that "Brexit means Brexit." As such, companies doing business with the UK in any capacity have a lot to consider with regard to the nature and practicality of those arrangements in the months and years ahead.

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