April 2016

Brexit – an Irish Perspective

Introduction

On 20th February 2016 David Cameron announced that Britain would, on 23rd June 2016, hold a referendum on the United Kingdom's membership of the European Union.

One question will be asked in the referendum: "*Should the United Kingdom remain a member of the European Union or leave the European Union?*".

Mr. Cameron is spearheading the campaign for the UK to remain. He sees the choice in the referendum as being between an "*even greater Britain*" by staying in, or a "*leap into the dark*" by exiting. However, he faces a significant battle in his campaign, which has already been publicly opposed by six members of his own cabinet and the Conservative Mayor of London, Boris Johnson.

This article provides an overview of the major issues in relation to a Brexit and analyses the possible consequences that a Brexit may have for Ireland. In doing so, we have focused on issues that may be of most relevance to the financial services industry in Ireland.

What are the odds?

A recent survey by ORB International for the Daily Telegraph (carried out over 20th – 24th April, 2016) found that if the referendum was held now some 51% of those surveyed would vote to remain in the EU, whereas 43% would vote to leave.

For further information on any of the issues discussed in this article please contact:

Kate Curneen
DD: +353 (0)1 673 1738
kate.curneen@dilloneustace.ie

Andrew Bates
DD: +353 (0)1 673 1704
andrew.bates@dilloneustace.ie

Cillian Bredin
DD: +353 (0)1 673 1889
Cillian.Bredin@dilloneustace.ie

These results indicate a two point gain for the "leave" camp[1]; somewhat surprising considering that commentators were of the opinion that the "stay" campaign had a good week, boosted by Barack Obama's visit and his rallying cry for Britain to remain. Sir Lynton Crosby writing for the Daily Telegraph[2] is of the opinion that the effect of the US president's visit may not yet be felt in the numbers as it takes time for the impact of such factors to be fully absorbed.

It is of note however that the results of polls over the last number of months have been erratic, at best, and the likely outcome of the referendum remains impossible to predict.

UK public opinion has proven very difficult to gauge on decisions on major issues of national importance in the recent past, as was clearly demonstrated by the outcome of both the 2014 Scottish independence referendum and last year's UK general election. The status quo may be in danger, particularly if turnout is low. There also seems to be a feeling that many Britons see Brexit as an inevitability at some point in the future and don't want to postpone it now and end up having to deal with even messier repercussions of separation from Europe down the road.

Brexit – unexplored territory

No member state has ever left the European Union, so there is no precedent for what might happen should the UK vote to leave. Although Article 50 of the Lisbon Treaty[3] outlines the procedure for a member state to leave, the reality is that no-one knows what exactly the procedure would involve or how long it would take.

The Treaty does tell us that in the event of a "leave" vote, the UK government must notify the European Council of its intention to leave. The UK would have to exit within two years of the date of such notification, unless an extension to this timeframe could be agreed. However, the EU has no obligations in terms of the negotiations that it must undertake with the UK in the event of a Brexit, such as, for example, in terms of a trade deal. In addition, it is possible that a Brexit may necessitate changes to EU treaties to accommodate the reduced number of member states, which could result in a referendum being required in Ireland.

UK Relationship with the EU Post-Brexit

There is currently little clarity on what the UK's relationship with the EU would look like in the event of a Brexit. However, there are a number of broad possible models for the UK's ongoing relationship with the EU. The impact of Brexit on business here, in the UK and across the rest of the EU will depend on the model chosen.

[1] Since the previous ORB poll, carried out over 13th – 17th April, 2016: http://www.opinion.co.uk/article.php?s=daily-telegraph-poll-13th-17th-april
[2] The Daily Telegraph, 26th April, 2016 – "*Exclusive Brexit poll: With one in five still not sure how they'll vote, it's all to play for*".
[3] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Aai0033

The pattern of existing relationships between the EU and so called “third countries” suggests that there are three main possible models[4]:

(i) World Trade Organisation (“WTO”) Approach

The UK, like all other EU member states, is a member of the WTO. If the UK did not negotiate a new relationship with the EU by the time it had left, then it would revert to its common membership of the WTO as a basis for trade. This model represents a minimum threshold and would amount to the most definitive break with the EU. It would be a major drawback for the UK if it had to fall back on WTO rules, which are likely to involve the imposition of trade tariffs[5].

The “most-favoured nation” model used by the WTO would also mean that the UK could not offer better trade terms to EU member states than to other WTO members. This model would not require the UK to contribute to the EU budget nor would it have automatic access to the internal market of the EU. All UK exports to the EU would need to comply with relevant EU regulations; however, the UK would have no influence over the development or application of these.

(ii) The Swiss Model – Bilateral Accords

This model would involve the negotiation of bilateral accords dealing with UK access to certain sectors of the EU and would consist of some combination of tariff-free trade, open access to the services market and guarantees that companies operating in these markets would be treated in a fair and non-discriminatory way. It is unlikely that this model would go so far as establishing a customs union or addressing non-tariff barriers. Switzerland’s arrangements with the EU go furthest in replicating the benefits of EU membership, but bring with them obligations such as facilitating the free movement of people, making a contribution to EU spending and compliance with rules governing the Single Market[6]. However, the ongoing viability of the Swiss model is in question[7].

(iii) The Norwegian Model – EEA Membership

This involves membership of the EEA, but not of the EU. It is the model that is most integrated with the Single Market and would enable considerable access to the EU market. The UK would likely have to ensure that its domestic legislation complies with any EU legislation that forms part of an EEA agreement.

However, this model would not address many of the UK’s political concerns; for example, it would still require a large contribution to the EU budget. In addition, it would not allow the UK to impose restrictions on immigration.

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[4] HM Government – “*Alternatives to membership: possible models for the United Kingdom outside the European Union”,* March 2016

[5] Oliver Mangan, Chief Economist, AIB – “*How Brexit Could Affect Your Business*”, 18th April, 2016

[6] http://ec.europa.eu/growth/single-market/index_en.htm

[7] “*Brexit deal on EU migrants inspires Switzerland* “ - http://www.euractiv.com/section/uk-europe/news/brexit-deal-on-eu-migrants-inspires-switzerland/

(iv) Post Brexit Form of Relationship between the UK and Ireland

The United Kingdom and Ireland have since the 1920s operated a Common Travel Area[8], which allows for nationals of both jurisdictions to travel and live in the other without immigration controls. In addition, both Ireland and the UK are part of the EU Customs Union[9], which means that there are no customs controls between the countries. However, without this, goods being exported from one jurisdiction to the other could be subject to various forms of customs controls and their liability to duty determined according to complex "Rules of Origin"[10].

It is unclear whether the Common Travel Area would (or could) continue in existence with the UK having left the EU, and Ireland remaining a member, in the same way that it did before both countries joined the EU in 1973.

Also, post Brexit the border with Northern Ireland would then become an external EU land border. This could give rise to very serious issues in terms of customs posts, passport controls etc., depending on the extent to which Brexit impacted the movement of goods, services and people between the UK and rest of the EU.

Potential Economic Impact of Brexit

Brexit has major economic implications for Ireland, the UK and Europe as a whole, in terms of trade, foreign direct investment, currency and exchange rates, and the freedom of goods, services, people and capital.

(i) Increased Market Volatility

The prospect of a Brexit has unsettled the financial markets during the first quarter of 2016 and it is expected that market volatility will increase around the time of the referendum, with the Bank of England set to provide additional liquidity to the UK financial system over a number of weeks in June 2016. It is difficult to estimate the extent of the impact that a Brexit would have on the UK financial system, but it is expected that there would be a good deal of uncertainty, the extent of which will depend on such factors as whether negotiations are amicable or confrontational and the form of relationship that a post-Brexit UK will have with the EU.

(ii) Medium to Long Term Economic Consequences

The UK's membership of the EU provides it with access to the world's largest single market, with an estimated GDP of £13 trillion. There is a concern that the reduction of market integration within the EU as a result of Brexit would have profoundly negative effects on the UK economy, would cause depreciation in Sterling, and result in import driven inflation. This

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[8] The common travel area is in existence between Ireland and the UK (including the Channel Islands and the Isle of Man).
[9] http://eur-lex.europa.eu/summary/chapter/customs.html?root_default=SUM_1_CODED%3D12
[10] http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/index_en.htm

could in turn result in wins for Irish companies reporting in Sterling, but with significant earnings in Euro[11].

There is also a fear that leaving the EU would affect foreign direct investment in the UK. The EU is currently negotiating major new free-trade agreements with the United States (the Transatlantic Trade and Investment Partnership[12]) and Japan[13]. The likely economic benefits of these agreements for the UK could well be lost in the case of a Brexit.

On his recent trip to the United Kingdom, President Barack Obama warned that the UK would be at the "*back of the queue*" for trade deals with the US if it left the EU. He further cautioned the UK that it could take up to 10 years to negotiate trade deals with the US if it leaves the EU[14].

In addition, a recent HM Treasury report[15] made for bleak reading, suggesting a reduction in GDP of anywhere between £2,600 and £5,200 per household after 15 years in the case of a Brexit, depending on the model of the relationship that the UK adopts with the EU.

Also, depending on the terms of the relationship between the UK and the EU post-Brexit, the UK could lose the four economic freedoms of the EU, being those of capital, labour, goods and services. This could prove very problematic for UK businesses that utilise those freedoms both directly and indirectly in their everyday trade. This in turn obviously has a "knock on" impact for the UK's trading partners, including Ireland.

(iii) Economic Uncertainty in Ireland

As a small open economy, many of the risks and challenges for Irish businesses stem from larger, foreign economies on which we tend to rely heavily. The possibility of a Brexit is, today, probably the most significant economic risk that we face.

The financial crisis of the past eight years has made clear that "*financial links transmit and amplify economic calamities from one country to another*"[16]; something very relevant for Ireland in the context of a Brexit, given that in terms of both trade integration and large financial exposures we have closer economic links with the UK than with any other country.

The importance of the UK as a trading partner to Ireland is difficult to overstate, with over €1.2 billion in goods and services traded weekly between the two economies. We export 16% of our goods and 19% of our services to the UK, so should a Brexit result in the imposition of economic tariffs against the UK, the effect of same would undoubtedly be felt here. The political and personal impact of new border controls might also be very significant.

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[11] Investec: "*Irish Equities – Country View*", Gerard Moore and Philip O'Sullivan, 24th February, 2016
[12] http://ec.europa.eu/trade/policy/in-focus/ttip/
[13] http://ec.europa.eu/trade/policy/countries-and-regions/countries/japan/
[14] The Daily Telegraph, 22nd April, 2016 – "*Barack Obama: Britain would go to the 'back of the queue' when it comes to US trade deals if it leaves the EU".*
[15] HM Government – *"HM Treasury analysis: the long-term economic impact of EU membership and the alternatives "– April 2016".*
[16] Citi, UK Economics Focus – "*Brexit Risk, Implications for Economies and Markets*", 5th February, 2016

Acting Irish Minister for Foreign Affairs and Trade, Charlie Flanagan[17] has stated that the Irish business community is "*extremely engaged on the potential impact of a British exit from the EU*" and understandably so; a Brexit may have profound economic consequences for Ireland. Although it is difficult to estimate the extent of the impact that Brexit would have on Irish businesses, in an ESRI study published in November 2015, Edgar Morgenroth[18] illustrated that in a "worst case" scenario, it could lead to a reduction in trade between Ireland and the UK of up to 20% and that this could in turn result in a reduction for Ireland of both foreign direct investment and exports.

Potential Impact of a Brexit for the UK Legal System

It is anticipated that a Brexit would have widespread consequences for tax, financial services, banking, employment, intellectual property, insolvency and company law in the United Kingdom.

As in Ireland, EU law currently has superiority in the legal hierarchy of the United Kingdom[19]. Britain has been a member of the EU since 1973 – that amounts to 43 years of the UK implementing directly effective EU legislation across its legal system. While standalone acts of Parliament enacted on foot of EU directives will likely remain in place post a Brexit, the effect of EU regulations, which are directly applicable without the need for specific implementing legislation, would likely fall away if a domestic mechanism for their continued implementation is not facilitated. There are also questions around the effect of European Court of Justice Decisions, which have been incorporated into UK jurisprudence, on UK caselaw following a Brexit. The task of untangling the domestic British legal system from that of the EU would be, at the very least, quite an onerous and time-consuming one.

Impact on Banking and Financial Services

The implications of a "leave" vote for the banking and the broader financial services regulatory framework in the UK and the "knock on" effects for Ireland are difficult to predict and fraught with complexity.

Passporting

The UK is the largest financial services centre in the world, accounting for over 20% of all financial services activity in Europe, with in excess of 250 foreign banks engaged in business there.

Various pieces of EU legislation allow regulated entities, such as banks, fund and asset managers, financial intermediaries and insurance companies that are authorised in one EU member state to carry out a broad range of regulated activities in other EEA countries facilitated by either the right of

[17] The Sunday Business Post - 17 April, 2016, Volume 29, No. 16.
[18] Associate Research Professor at the Economic and Social Research Institute of Ireland.
[19] *Van Gen den Loos v. Netherlandse Administratie der Belastingen* - Case C-26/62 1963 E.C.R. 1

establishment (via a branch) or by cross border provision of services, generally referred to as "passporting".

That means that once authorised in its home member state, the relevant regulated entity can "passport" its services into every other EU member state without the need to get a local authorisation and without the need to set up a local subsidiary. Many global banking groups use London as a hub to passport into the rest of Europe and passporting is seen a key factor in the success of London as a financial services centre over the last number of decades. Accordingly, if the UK lost passporting rights as a result of a Brexit, it could be very damaging for the UK economy and would impact a vast array of financial services businesses, including banks, fund managers, insurers, investments advisors and financial intermediaries.

The position post-Brexit is unclear for those who use London as their EU hub to sell services and products into multiple other member states. It is unclear for, for example, UK fund managers who manage and market within the EU Irish domiciled or Luxembourg domiciled funds. The loss of passporting could also significantly impact the EU wide distribution of investment funds by UK managers, making London in particular a less attractive place for those non-EU managers looking for a place to set up shop to take advantage of AIFMD[20] and/or UCITS[21]. Similarly it is unclear for Irish and other EU regulated entities that have set up UK branches or sell into the UK on a freedom of services basis – will they now need a UK authorisation and a UK subsidiary? The UK not being able to formulate a deal on passporting is also of some concern in the area of CRDIV[22], which does not contemplate a framework to facilitate third country access.

Although the UK should be compliant with EU rules for passporting at the time of departure, it is not clear that "equivalence" would be granted by the EU to the UK to continue to avail of this cross border servicing using a passport. We do not have clarity on what the implications of this would be for how regulated entities choose to structure themselves in Europe.

In addition, if the UK could not negotiate a deal on passporting, this would present administrative and organisational headaches for Irish entities that passport into the UK. It means that if such entities are to continue carrying out regulated activities that they would need to be locally authorised. Different or dual capital, governance and other regulatory requirements would prove costly and cumbersome.

Fundamental Impact on Financial Services Operations

Brexit would result in many banks and financial institutions having to undertake a fundamental review of their business to establish, amongst other issues, whether the UK would be the most appropriate location in which to maintain their operations.

[20] The Alternative Investment Funds Managers Directive (Directive 2011/61/EU).
[21] The Undertakings for the Collective Investment in Transferable Securities Directive (Directive 2009/65/EC) (as amended)
[22] The Capital Requirements Directive (Directive 2013/36/EU)

Many of the recent EU driven initiatives aimed at stimulating the flow of capital in the EU, such as the Capital Markets Union[23], may not, in the event of a Brexit, benefit banks and other financial services providers based in the UK. Jamie Dimon, the Chief Executive of JPMorgan was quoted in the Financial Times earlier this year as saying that Brexit would constitute a "*massive dislocation*" to London's financial services centre and would reverse decades of growth for international banks in London. There is a fear in the UK that a Brexit would result in UK banks being unable to sell their services throughout the EU and international banks scaling back their operations and moving elsewhere.

Market volatility could impact both the cost and the availability of certain types of finance, resulting in increased margins, an inability, for example, to passport prospectuses into the UK and may raise concerns in relation to regulatory capital rules.

Potential Impact of a "Leave Vote" for the Financial Services Industry and Opportunities for Ireland

Although some concerns have been voiced about the economic impact of a Brexit on Ireland, it is likely that this would also present us with some opportunities.

Dublin as a Financial Services Centre

In the event that the UK could not negotiate a deal on passporting, it is possible that some businesses would move their location from London to other financial hubs within the EU. In terms of where such entities might locate; Frankfurt is an obvious location, but Brexit also presents opportunities for Dublin as an alternative to London. Standard and Poor's[24], have written that in the case of a Brexit the centre of gravity in European financial markets could well move further towards Dublin. Already there are indications that firms based in London are researching the Dublin office market to check out the potential supply of office space, and how rapidly they could acquire it.

Dublin does seem an obvious choice, given that Ireland is the only other English-speaking location in the EU, it has a common law system, it is geographically close to the UK and mainland Europe and many of those institutions considering a move may already have some form of presence here. It also has a significant cross border industry in the areas of UCITS, alternative funds, asset management, insurance (particularly life) and banking.

We outline below a number of financial services and related areas that would be impacted by Brexit and discuss the potential impact and opportunities for Ireland in those areas if a Brexit were to occur.

Asset Management / Funds

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[23] http://ec.europa.eu/finance/capital-markets-union/index_en.htm
[24] The Financial Times, 15th July, 2015 – "*Brexit presents opportunities to Ireland's financial sector*"

The impact of Brexit on the asset management and investment funds industry may depend on a number of factors, including where the clients or funds are located, the target markets for distribution, the types of investors (retail, professional or institutional) and the location of the asset manager.

It is worth keeping in mind, however, that UCITS funds themselves (independent of their manager) get the marketing passport. Therefore, just like a US asset manager, a UK based asset manager should still be able to act as investment manager to an Irish domiciled self-managed UCITS, which UCITS could still have an EU wide marketing passport. Some practical hurdles might need to be overcome to allow the UK asset manager's staff to retain a central role in the marketing and distribution process, but that should not be insurmountable. In the case of alternative investment funds ("**AIFs**"), however, the marketing passport is not granted to the fund product itself, rather it is given to the alternative investment fund managers ("**AIFMs**"). Given that only EU authorised AIFMs can access the marketing passport, if the UK leaves the EU, UK AIFMs will be at some disadvantage.

The extent of disadvantage will really depend on where the products are being sold. Sale in the UK of UK domiciled products or of products managed by UK managers should not pose any problem for UK managers. Similarly, UCITS cross border distribution should not be fatally impacted. However, as AIF products become more mainstream and as Super ManCos (dual UCITS/AIFM) grow their assets and power, the UK may begin to be perceived as having been left behind.

Post Brexit, those UK managers who manage non-fund mandates may still be able to access some markets when managing professional or institutional money but that would require country by country analysis and leave them competing with managers who enjoy full access.

For some, setting up an Irish subsidiary with a full EU wide authorisation may offer a way to address such challenges.

Derivatives

The uncertainty surrounding the Brexit referendum is having a notable impact on exchange rates, with Sterling rates quite unsettled since the beginning of this year. This is likely to continue in the run-up to the referendum and in the event of a Brexit, during any exit negotiation process. Irish businesses should check their commercial exposure to foreign exchange risks, such as funding requirements and payment obligations. This is important for example for a business that may have a large amount of dollar debt that is unhedged but with inward payments largely denominated in Sterling.

Businesses that have significant exposure to the UK economy could also find that their counterparties perception of their financial stability will be adversely affected if there was a Brexit. We have had experience of that during the financial crisis. A more tangible example of difficulties faced may be where margin calls are to be met by providing assets that have some connection to the United Kingdom; a decrease in the value of such assets may result in obligations to post increased margin. Standard ISDA documentation may need to be amended if there were a Brexit and counterparties should check as to whether their swap documentation contains specific Brexit or similar clauses that may for example trigger an event of default.

It is also worth noting that is possible that, following a Brexit, EU regulators would require that euro denominated trading activities / financial instruments need to be located within the Eurozone.

Banking Business

A Brexit could also have far-reaching consequences for Irish banks.

It has been reported that the Deputy Governor of Ireland's Central Bank (the "**CBI**"), Cyril Roux, has requested that the main banks in Ireland outline how they intend to deal with the challenges that they may face following a Brexit, given that any shock to the UK economy could cause issues for future Irish growth and profitability. In so doing, each of those banks has been asked to look at its business model, governance, funding and liquidity, capital adequacy and legal arrangements.

The CBI has further warned that the five retail banks operating in Ireland have considerable loan exposure to the UK, with around €64bn, or 21% of their total assets in the UK, so any depreciation in asset values and / or issues with loan repayments brought about by a Brexit could have a major knock on effect on the financial system here.

On Brexit, the CBI says: "*In such an event, the impact on the financial sector here might be significant, with positive and negative consequences from an economic perspective and a direct impact on the scale of the Central Bank's mandate, for example arising from increased numbers of authorisations, changes in type and complexity of business models including the possible establishment of financial market infrastructures, etc.*".

The possibility of positive developments for the international banking sector in Ireland following a Brexit has also been echoed elsewhere, with, for example, the Financial Times suggesting that banks such as Bank of America, Morgan Stanley and Citigroup are all considering a move to Ireland if it were to occur and a report by the London based policy institute, The Centre for the Study of Financial Innovation (the "**CSFI**") also naming Dublin as an alternative location for international banks looking to leave London following a Brexit[25].

Insurance

A sizable amount of insurance business is written between Ireland and the UK on a cross border basis. Following a Brexit, if passporting could no longer be relied upon, the ability of Irish insurers to provide their services on a cross border basis into the UK may face additional regulatory obstacles. The same applies to UK insurers seeking to access the Irish and other EU markets.

It might also mean that those insurers with an Irish head office authorisation who have a pan European distribution model with a particular focus on the UK may face challenges.

25 "*The City and Brexit – a CSFI Survey of the Financial Services Sector's Views on Britain and the EU*" – April, 2015

The UK insurance group the International Underwriting Association (IUA) has suggested that if the UK were to exit the EU, then "*insurers and reinsurers from . . . countries such as the United States and Japan might be obliged to choose other European centres over London in order to passport into the EU*"[26], an opinion echoed by the CSFI and something that might also result in potential opportunities for Ireland.

Securitisation

The importance of securitisation in the post-financial crisis environment has been acknowledged by the EU Commission in the context of its Capital Markets Union project which seeks to resuscitate the capital markets with an overhaul of various important elements of the EU regulatory regime. Brexit, however, would likely lead to a volatile financial environment in the United Kingdom, with knock on impacts for UK market participants, including Irish and other EU investors. Of particular concern are the UK housing market and the market for the provision of secured credit. Any material adjustment in the value of such assets would obviously have a knock on effect on the asset backed securities that are based on such assets.

Brexit could also potentially result in wider spreads and decreased liquidly for UK asset backed securities. Investors may be aware that certain UK asset backed security documentation has started to reference risk wording in relation to a Brexit. Unfavourable asset performance brought about by the economic disturbance of a Brexit could lead to a downgrade by rating agencies, which could lead to the relevant securities being given unfavourable regulatory treatment, such as being deemed ineligible collateral for Eurosystem liquidity providing operations. In this regard, it should be noted that such asset backed securities need to have an EU or EEA connection. Depending on the legal relationship of the UK with the EU following a Brexit, this may well also result in ineligibility for these securities.

Data Protection

Brexit would allow the UK government to create a more "light-touch" data protection regime to that which currently exists in the EU. It is unlikely that the UK would wish to introduce the equivalent of the proposed new EU Data Protection Regulation[27], which is due to take effect in 2018. A lighter touch approach would be a competitive advantage for UK businesses. However, it would mean that the UK would not have regulatory consistency with EU member states.

Furthermore, the UK would need to ensure that its regime is such that it is considered an "adequate" destination for personal data that is transferred there from other EU member states, including Ireland. Irish businesses would need to consider EU data transfer restrictions before transferring personal data to the UK, just as they do now with third countries such as the United States. However, this could result in some international businesses looking to re-locate their data-

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[26] The Irish Times, 4th August, 2015 - "*Britain's difficulty may once more prove to be Ireland's opportunity*".
[27] Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).

processing operations elsewhere in the EU. For reasons already outlined, Ireland would be an obvious choice of alternative location.

Tax

It is also worth noting that if the UK were to leave the EU, it would most likely no longer remain part of the EU Customs Union. This would mean that unless a free-trade agreement with no or low customs could be negotiated, exports between the UK and the rest of the EU (including Ireland) would need to go through customs procedures.

In addition, it is possible that following a Brexit the UK may re-introduce UK tax laws and rules that have previously been struck down as contrary to EU law. The UK would no longer have to concern itself with EU legislation, such as in the area of state aid, when deciding on the terms of its taxation laws and could, for example, provide more favourable tax rates for particular sectors.

The UK, in contrast to France and Germany, has always been opposed to the harmonisation of taxes within the EU. If the UK were to leave the EU, it could mean further tax harmonisation, following the departure of its most substantial opponent and / or the introduction of some ill-conceived taxes. For example, it was the UK that led the opposition to the financial transactions tax[28]. Ireland has benefited from often being on the same side as the UK when it comes to EU tax matters.

Conclusion

The referendum on Brexit presents the British public the first opportunity in over 40 years to decide whether they want to stay in the EU, or to leave. The long term legal, economic and political implications of a Brexit for the UK and the other member states of the EU, including Ireland, are very difficult to predict.

Commentators offer conflicting opinions on the probable consequences for Ireland. Given our close economic, political and social ties to the UK, the effects of a Brexit would be more profound here than in any other member state, although the degree and nature of the impact would be shaped to a large extent by the form of the legal model that the UK adopts with the EU following any post-referendum negotiations.

How can Dillon Eustace help you plan for Brexit?

Brexit presents one of the greatest challenges for Irish businesses in recent years. If it happens it may well affect market confidence, the timing of new transactions and even the availability of credit. All Irish businesses that trade and engage with and depend heavily on the UK market should be undertaking a review of their business arrangements to identify possible concerns that they may

[28] See: http://www.bloomberg.com/news/articles/2015-12-08/u-k-objects-to-transaction-tax-plan-as-eu-talks-head-into-2016

have depending on the possible outcomes of the referendum and formulating necessary contingency arrangements in their operational and corporate structures.

Generally, for transactions that involve English law and UK-based parties, certain legal and regulatory concerns may arise in particular areas if a Brexit takes place and legal documentation may need to be reviewed and amended accordingly. You may need to review your investment strategies and hedging arrangements, to identify any exposures which may be caused by a Brexit. In particular, regulated entities availing of any cross-border passporting arrangements involving the UK need to be aware of the possible obstacles that they may face in the event of a "leave" vote.

We encourage you to get in touch with any Brexit related queries or concerns that you may have.

For more details on how Dillon Eustace can assist you, to request copies of our most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any member of our Brexit Team listed on the cover page of this article, or your usual Dillon Eustace contact.

DILLON EUSTACE

Dublin
33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

Cayman Islands
Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

New York
245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

Tokyo
12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.