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## Brexit: Legal and Business Implications

8.5.2016

Founding principles of the EU were open borders for trade and the movement of people. The UK's decision to leave the European Union (Brexit) will affect all aspects of trade with companies that do business with the UK and with London as the clearinghouse for the Euro.

The ultimate implications of Brexit are unknown. The status quo will largely remain in place for two years after the formal "trigger" is pulled under Article 50 of the Treaty on European Union.

During the two year exit period, the UK will need to negotiate its disengagement with the EU. With respect to trade, the UK will need to negotiate an alternative trading model with the EU, which could take the form of the Norwegian model, negotiated bilateral agreements, a customs union, free trade agreements, among others. With respect to the movement of people, visa and passport control systems will need to be put in place.

The enormity and complexity of these tasks cannot be understated. Over 40 years of EU evolution, the UK and other member countries have ceded their own national laws, regulations, agencies, bureaucracies, etc. and transferred these functions to the federal control of the EU. All of these functions will have to be repatriated back to national UK functions and bureaucracies within a two year sprint. During this time period, the UK will have to identify which EU laws and EU derived laws it will keep going forward, as permitted by the exit agreement negotiated with the EU. This in turn, will be informed by the nature of both internal UK law making and new structures as well the model of relationship the UK will seek to negotiate with the EU going forward. With so many moving parts, it is virtually impossible to predict the nature of the UK's internal structure and laws or future relationship with the EU. Disengagement from the EU and return to UK control will have enormous impact on key industry sectors such as banking and financial services,

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manufacturing and trade, life sciences and pharmaceuticals, energy and infrastructure projects and financing, environmental regulation, technology, communications. Virtually no industry or service sector is unaffected by Brexit.

After the two year disengagement period, EU laws will generally not apply to the UK. EU derived rights and structures will be replaced with national UK laws and structures.

Brexit will necessitate changes in laws and regulatory structures of paramount importance to business including but not limited to data protection, merger and acquisition, tax, industry sector specific—regulation, marketing authorization, research and development, manufacturing and supply chain—patent and trademark, fair competition, antitrust, employment, intellectual property, real estate and corporation, dispute resolution, jurisdiction, governing law, enforcement of judgments, debt and equity capital markets, securities listing and prospectus regimes, employment, real estate and corporations laws, etc.

A key advantage for businesses operating within the EU's single market has been the ability to touch one regulatory body, to obtain one approval, permit, authorization, fee, for operation or sales within the entire EU market.

Contracts being negotiated may need to reference alternative sources of regulation for performance standards and compliance. Contracts in the course of performance will be impacted by uncertainty in regulation, and may require amendment. Others in the course of performance may become impossible or impracticable as a result of material changes in costs—especially for fixed price contracts-- inflation, changes in the exchange rate of the Euro or Pound Sterling, the unavailability of labor once free immigration is curbed, increased costs of imported materials, etc. Force majeure clauses may be invoked to cancel or suspend performance. Depending on when dispute resolution options are invoked, there are issues of jurisdiction and applicable law.

Faced with such short term uncertainty, businesses doing business within the UK will benefit from the guidance of attorneys experienced in international law, treaties, finance as well as subject matter expertise in specific industries.

In addition to our Brexit team, Butzel Long is a member of Lex Mundi, a global network of 160 premier law firms located in more than 100 countries with access to more than 21,000 lawyers worldwide. With Lex Mundi, Butzel Long can help our clients meet their legal needs anywhere in the world. We offer our clients indigenous insight, local market knowledge and industry sector experience, innovative solutions, smart resourcing and cross-border connectivity.

Contact a member of our Brexit team to discuss how the UK's decision to leave the EU might impact your business.

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