

Making the case for a Brexit boost

Ireland is in a unique position, both geographically and culturally, that could work to our companies' advantage when Britain leaves the EU, lawyer Simon Deane-Johns tells **Quinton O'Reilly**

Despite there only being a few months to go before it comes into effect, the lack of clarity around Brexit has left businesses in no man's land.

It's tough to prepare for an event without knowing the real impact and ramifications, but while Irish businesses deal with this, there are a number of factors that can help it cope, according to Simon Deane-Johns, senior consultant, Leman Solicitors.

"It's nicely placed geographically and it also has the links to the US," he said. "The number of US businesses already in Ireland and the geographic position relative to North America – don't forget the Canadians – makes it useful."

"It's also worth mentioning the diaspora because Ireland has embraced the fact that so many people have left over the years to go to Britain, the EU, the US and Australia. And it has done a good job in maintaining the links with the diaspora so that enormous numbers of people around the world are comfortable with the idea of doing business through Ireland and have great sympathy and empathy for it."

"I don't think we should overlook that by any stretch; literature and films are quite important in a business sense to make people feel comfortable about it."

If you're wondering how exactly that ties into fintech, it's because the culture of a country can help people feel at ease, be it working in it or doing business with it. Brexit will affect other nations' views of Britain.

"Those 'soft issues' are massively important... the social sense that Ireland is seen to have become more moderate and liberal, that's welcoming to a lot of people, and people support that," said Deane-Johns.

"Britain had a great reputation along those lines in the past as well, but recent events



Simon Deane-Johns, senior consultant, Leman Solicitors: 'One element that could work in Ireland's favour is its relationship with Europe'

have really questioned that and so many people now don't feel comfortable, and people are going back to the EU, and you see all sorts of stuff bubbling up in Britain that is kind of unpleasant.

"That juxtaposition is really stark and you don't want to make hay out of someone's

misfortune, but I think just if you're starting with a blank sheet of paper, you see Ireland culturally in a more favourable light; despite this only being a recent phenomenon in Britain, it's a nasty trend."

One element that could work in Ireland's favour is its relationship with Europe, as well as the US and Britain.

"Ireland has had a good relationship with continental Europe and it's very important to recognise that Ireland will be the last fully common law jurisdiction left in the EEA once Britain departs," Deane-Johns said. "That's important because of the US; it's the same as the US system and UK system and a bunch of other countries across the world in the commonwealth."

"It's a great opportunity for Ireland to be the link between the world's common law jurisdictions and the civil law jurisdictions of the continent, and a perfectly good place to understand the nature of the British system."

"Britain will remain the closest of the non-EU trading partners, at least on the western side, and it's all very significant. It'll be important for anyone doing business in Britain from Europe to understand Britain's system and how it works."

The other part is keeping track of the different laws and jurisdictions.

One of the reasons Deane-Johns partnered with Leman is to help him advise clients within Britain about changes in the EU's laws.

"I understand the British

system and the EU as they evolved up to now, but there's going to be an extra layer of complexity going forward to that kind of exercise and I found that it's absolutely critical that I'm working very closely indeed with an Irish firm rather than trying to [go it alone]," he said.

"Once you involve an Irish firm alongside one's own advice, it's not quite the same as being embedded in that structure and approach, and I have a direct retainer with Leman and work with the guys closely to make sure nothing slips through the cracks."

For now, the aim for Deane-Johns is to continue working with British companies and with Leman to ensure they have a comprehensive view of all jurisdictions. As British companies look for ways to stay in the EU market post-Brexit, Ireland is turning into an attractive base.

"There are 350 payment services firms in Britain which passport into Europe and a bunch of those are in the process of applying or have applied to the Central Bank of Ireland for authorisation of an entity in Ireland," he said.

"Then that entity would act as the EEA hub for those payment services firms."

"Some are applying in other jurisdictions. The main focus for me is retaining those client relationships and expanding with them into the EEA hubs and supporting that activity from Ireland, certainly after Brexit. I can do that in Britain until March 2019, but in the lead-up it's going to be important to do that through Ireland."

"There'll be people coming in the other way, as 140 EEA firms passported into Britain. Britain will be somewhat more accommodating in allowing a transition there, but in that time, it'll be important to help them set up in Britain, but in the short term, it's definitely helping Britain set up their EEA hubs."



Pat Lucey, chief executive, Aspira

Managing the risk of fintech

For Pat Lucey, chief executive of Aspira, there are three areas that throw up both challenges and opportunities: blockchain, which is something it's actively involved in helping set a working standard for; Robotic Process Automation (RPA); and PSD2 (Revised Payment Service Directive), the new EU financial regulations that came into effect this year.

With regards to RPA, which is designed to automate repetitive tasks, the inclusion of the term robotic brings with it some fear regarding job displacement. But Lucey said that, if anything, it frees up workers to do more projects.

"My own background is in software development, and the fear in this country is the work would be outsourced to wherever labour was cheaper," he said.

"The scare with RPA is that it would lead to disruptions in the workforce and jobs being lost but, in my experience, what actually happens with RPA isn't people losing their jobs, it's that they're getting to do more projects and be more efficient."

"What I have seen is a reduction in the need to outsource, so I think for people in organisations who might be reliant on people outsourcing a lot of those back-office disruptions, they're probably the ones who would be most wary of RPA."

In the case of PSD2, the directive means banks can

open up their APIs to allow third-parties to plug in and create financial apps through it. Lucey's worry is mainly from a project management perspective, but he breaks it up into two components.

"[The first] one is security and, as the banking systems open up their APIs to the world, obviously that represents a risk and real threat to the stability of the system," he said.

"For any human writing code, there's always a possibility of an error being made and an exposure there, so that's a real concern for everyone in the industry, and I think timelines and deadlines that are imposed make it tough for people. From a project management perspective, big projects that they have to deliver on time can put pressure on the whole validation cycle."

"The concern is to make sure organisations don't scrimp on that end of it as they complete the whole testing, verification and validation cycle in order to meet the regulatory deadline."

With these different factors in place, much of the onus is on ensuring project management goes as smoothly as possible. Lucey recommends that anyone undergoing a project in the financial services sector looks at risk instead of schedule as that will determine its success.

"On the project management side, the message I'm always trying to give to project managers is the key thing isn't schedule, it's risk," he

said. "When you're running a project, you need to be aggressively and proactively tackling risk."

"It's a bit like how a good boxer can take a punch, but a great boxer can avoid that punch because they can see it coming. It's the same thing when it comes to delivering a team project in the financial services sector. You have to be able to spot the potential for things going wrong and take action proactively, rather than stumble along and then running into another problem again."

One of the big risks that Irish businesses are facing is Brexit, a topic that affects every industry. While the actual outcome has yet to be determined, Lucey said that this shouldn't stop businesses from being proactive.

"People say we don't know what to do, but it's like any other risk: you look at what might happen, you look at the impact, and you take action," he said.

"There are basically three or four potential outcomes. You look at each one, figure out what's the worst they can do to you, and then put your contingency plan in place."

"For our own company, for example, we had intended to open a British office and we put that on hold with the advent of Brexit. We waited for the dust to settle and of course it hasn't, but rather than just staying in paralysis mode, we're opening an office in Amsterdam instead."



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IRELAND'S TECH LAW FIRM

Prominent UK Fintech Lawyer Simon Deane-Johns Joins Leman Solicitors

Simon will consult to Leman in Ireland before and beyond Brexit, particularly helping UK clients with re-locating EU-facing operations and getting a new entity authorised or registered in Ireland and the EEA.

After initially practising as a barrister in Sydney for four years, Simon has spent the past 20 years in financial technology in London and New York, working with global players Reuters, GE, Amazon and WorldPay, and co-founding Earthport plc as a peer-to-peer (P2P) payments platform and Zopa (the world's first P2P lending platform) as general counsel, before returning to full-time private practice in 2011.

Simon has also advised on the launch of many other innovative services including LinkedFinance (Ireland's first P2P lending platform) Prodigy Finance (whose loans are funded via an Dublin-listed bond issuer), Abundance Investment, Crowdbank, Proplend, Invest & Fund, Nutmeg, Borro, Yoyo, The Money Platform, BondMason and Funding Xchange and four Amazon services in Europe.

Simon specialises in the regulatory and commercial aspects of retail financial services, e-commerce, privacy and IT. Clients include:

- e-money and payment service providers;
- peer-to-peer (P2P) lending platforms;
- consumer lenders;
- e-retailers and e-marketplaces; and
- IT and data services providers.

Aside from his legal practice, Simon helped establish and advised the UK's P2P Finance Association, Chairs the Advisory Board of the Society for Computers and Law (fostering a global tech and law community via www.scl.org); and is a Senior Fellow of the Finance Innovation Lab (incubating the people, ideas and movements building a financial system that serves people and the planet at www.financeinnovationlab.org).

Simon also speaks and writes frequently on FinTech legal and consumer issues on his blogs "Pragmatist" and "The Fine Print", including a focus on ensuring the lawful and ethical development of Artificial Intelligence and data science, so that humans remain at the heart of technology.

Simon will work closely with Dominic Conlon, Partner and Head of Technology in Leman Solicitors to service the firm's FinTech clients. Dominic has a particular interest and expertise advising clients in the Payments space, working on some of the most interesting payments deals which have taken place in Ireland over the last 18 years.

Simon and Leman's Fintech team look forward to supporting their local and global clients' regulatory and commercial expansion in Ireland and the EEA.

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