



Ireland: New Jurisdiction of Choice for International Restructurings?



What steps have you and your practice taken to prepare for Brexit?

We have been extremely busy preparing for Brexit as our UK clients have needed to react and evolve their European strategy in order to continue to do business in and with the EU.

As a truly international firm, we viewed Brexit through that prism, and considered how we could best support our clients who were facing significant regulatory challenges. In 2017, we extended our Irish network to London, where our team provides Irish legal advice to UK-based clients.

In addition, we also opened up an office in Luxembourg in 2019. We are now able to provide professional advice across a number of European jurisdictions.

We never anticipated a wholesale flight of financial services business out of the city as a result of Brexit as English law is far too entrenched and cultivated in complex matters given the historical significance of the City of London as a global financial centre.

There has been an influx of international firms in Ireland as a result of Brexit and we welcome the newer entrants to the Irish legal market. More global operations having a footprint in Ireland will inevitably lead to developing the quality and level of sophistication of legal services we see in this jurisdiction and further endorses our strategy of opening up our Dublin office 15 years ago.



How have the Irish government and state agencies promoted the use of Irish law and Irish legal services?

Corporations have long valued Ireland as an English-speaking country, with a highly educated workforce, competitive tax system, and trusted legal system. Ireland offers a very interesting ecosystem given the number of overseas multinational companies, including many incredibly successful tech firms, who have chosen Ireland as a base for European operations. I am confident that Ireland will remain a very attractive place for international business in years to come.



What opportunities does Brexit present around utilising Ireland as a European hub for international restructuring?

Post-Brexit, Ireland will become the largest common law jurisdiction in the EU. Ireland's court system is efficient, pro-business, and the legal professional services sector has gained a strong global reputation as a centre of excellence. Multinationals should remember the benefits that the Irish legal sector can offer when considering basing operations abroad. Ireland is a safe and reliable EU jurisdiction, and our clients like that certainty.

The sector provides business advantages to the North American market in particular because of the similarities between the common laws in the U.S. and Ireland and, of course, English as a shared language. This familiarity around the underlining fundamental legal system is very valuable when choosing a jurisdiction. People also like the certainty of Irish courts. There is a strong initiative across the Irish legal sector to promote Ireland as a convenient and appropriate hub for international transactions. There are exceptionally high standards for legal services in Ireland, and it remains a highly competitive market.

Ireland will continue to develop and grow as a centre of excellence for jurisprudence.

We do anticipate that Ireland will see an increase in international restructurings in the months ahead but, for now, it is too early to begin to quantify that influx – apart from some notable examples in the Weatherford and Norwegian Air examinerships and the Ballantyne Re plc and Nordic Aviation Capital schemes of arrangement that we have seen over the past two years.



What are the Irish corporate and debt restructuring alternatives?

The examinership process is unique to Ireland and, having been introduced in 1990, is a very well-developed corporate debt restructuring option.

Although examinership has been the "go-to" corporate debt-restructuring tool in Ireland to-date, Brexit has resulted in an increase of interest from international clients in Ireland's scheme of arrangement process. Although a somewhat underutilised tool historically, recent developments have shown that Ireland is emerging as an attractive option for international businesses to have debt restructurings conducted by way of a scheme of arrangement. The Irish courts have been willing to entertain scheme applications in respect of foreign companies and Irish schemes have been recognised and made effective in other jurisdictions.

An example of how this works in practice is the Irish High Court's approval of the recent scheme of arrangement in respect of Nordic Aviation Capital, the world's largest regional aircraft leasing company. The scheme restructured approximately US\$5.9 billion of English, New York and German law governed debt.

The decision reinforces the view that the Irish courts will adopt a pragmatic and commercial approach, which is similar to (and arguably broader than) the approach taken by the courts of other common law jurisdictions in relation to comparable complex international restructurings.

The approval of the Nordic Scheme demonstrates that Irish schemes can provide a flexible and efficient tool for complex international debt restructurings. The Nordic Scheme builds upon the recent trend of Irish schemes being used to effect debt restructurings of large international groups and showcases Ireland's ability to act as the jurisdiction of choice for such restructuring.

Our Restructuring & Insolvency team are also involved in the high-profile and complex Norwegian Air examinership, which is one of the largest examinerships the State has seen to date. The process involves five Irish companies that handle aircraft financing, trading and leasing as well as aircraft operations, and a Norwegian registered company that was admitted to the examinership as a related company due to its sufficient connection to Ireland.

We anticipate that we will see more of this happening in the year ahead. All eyes are on the aviation sector – and

aircraft finance in particular – in the Irish restructuring market.



What challenges will Ireland face over the next year?

Essentially, there are three things:

The inevitable challenges for Ireland and many other European countries will be COVID-19 and Brexit and the big question is: will the impact of Brexit be greater than COVID?

Even if it was last minute, it was positive to see an orderly UK withdrawal from the EU however as much of the deal focused on the exporting and importing of goods, the tangible impact on financial services in Ireland remains to be seen.

The longer economic impact of COVID-19 is going to be a challenge this year, but with the vaccine roll out comes hope and in the longer term we will begin to see opportunities arising as a result of the pandemic, including, for example, more flexibility for our people as remote working becomes the norm.

Then, there's the things we don't know about yet, the inevitable hurdles, but let's hope there aren't too many unpleasant surprises in 2021.

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