

Market Trends 2022/23: Brexit Disclosure

A Practical Guidance® Practice Note by Anna Pinedo, Gonzalo Go, Marissa Dressor, and Katrina Codilla, Mayer Brown LLP



Anna Pinedo
Mayer Brown LLP



Gonzalo Go
Mayer Brown LLP



Marissa Dressor
Mayer Brown LLP



Katrina Codilla
Mayer Brown LLP

This practice note discusses the exit of the United Kingdom (UK) from its European Union (EU) membership (known as “Brexit”). This practice note also provides sample Brexit-related disclosures included in public filings made with the

U.S. Securities and Exchange Commission (SEC) regarding Brexit’s impacts on the companies, their respective employees, management, operations, and prospects, and concludes with recommendations on how to enhance these disclosures.

The UK held a referendum on June 23, 2016, in which a slim majority voted in favor of leaving the EU in an action commonly referred to as Brexit. On March 29, 2017, the British government tendered its formal notice to withdraw from the EU pursuant to Article 50 of the Lisbon Treaty. The UK conducted an early general election on December 12, 2019, affording the prime minister’s Conservative party a majority of 80 in the UK House of Commons. The UK’s EU Withdrawal Bill was enacted into law on January 23, 2020 and the EU parliament approved Brexit on January 29, 2020. On January 31, 2020, the UK formally left the EU and entered into an 11-month transition period during which most EU laws continued to be enforced in the UK. The transition period expired on December 31, 2020.

For a further discussion of Brexit, see [Market Trends 2019/20: International Capital Markets](#). For a template of Brexit-related risk factor disclosure, see [Brexit Risk Factor](#). For more information on drafting disclosures in general, see [Form 10-K Drafting and Review](#), [Registration Statement and Preliminary Prospectus Preparations for an IPO](#), [Form S-1 Registration Statements](#), [Form 10-Q Drafting and Review](#), and [Offering Document Drafting Checklist](#).

Brexit-Related Uncertainties and Subsequent Legislation

The Trade and Cooperation Agreement (TCA) between the UK and EU member states was signed on December 30,

2020, and entered into effect on May 1, 2021, creating a new free trade agreement between the UK and the EU. Notably, the TCA did not cover UK-based firms' previous right to access the wider EU market and conduct regulated business in EU member states (called "passporting") – a setback for UK-based firms conducting business in the EU market. TCA's scope is limited almost exclusively to trade in goods (such as fisheries, agriculture, and medicine) and does not fully address the challenges in the services industries and the movement of people between the UK and EU borders. For example, the TCA has no regulatory means to remedy the loss of passporting rights for UK-based firms that operate in the EU.

On September 2022, the Retained EU Law (Revocation and Reform) Bill 2022 (Bill) was introduced to the House of Commons. Currently, the UK retains and enforces approximately 2,400 EU laws on various subject matters (EU-retained laws) in order to avoid gaps in its own laws following Brexit. The EU-retained laws cover critical frameworks, guidelines and rules of important sectors, including product safety, employment, healthcare and life sciences. The Bill sets a sunset date to automatically retire a majority of EU-retained laws by December 31, 2023, subject to review and possible extension until 2026. The Bill provides that where any conflict arises between UK and EU laws, UK law would govern, which is a reversal of UK's pre-Brexit standard. The Bill proposes to automatically revoke certain EU-retained laws unless steps are taken by UK ministers to amend, restate, or replace them, with certain exceptions for primary legislation, financial services, tax and data protection.

The UK government forecasts that Brexit will continue to have long-lasting negative impacts on the UK economy, especially as resulting trade agreements create a new patchwork of regulatory regimes applicable to UK-based firms doing business in the wider EU market. More than five years since the Brexit referendum, financial analysts have continued to predict contracted growth for the UK economy. Financial analysts attribute this slowdown to the effects of Brexit-related uncertainties on business investments and confidence, higher inflation, and the weaker UK pound sterling, which reduced consumer demand and spending power. Companies have also relocated or initiated plans to relocate their headquarters from the UK to the EU, with Dublin as a popular destination for many, followed by Luxembourg, Frankfurt and Paris.

As post-Brexit's political, legal, regulatory, and economic effects evolve, companies should ascertain and disclose the effects these may have on their businesses. Immediately

following the 2016 Brexit vote, several companies across various industries began disclosing Brexit-related risks in their filings with the SEC. Initially, these disclosures were generic boilerplate provisions which might be applicable to almost any company. Since 2016, the SEC staff has been emphasizing the importance of transparency by disclosing the material impacts of Brexit on a company's business, operations, industry or sector, and providing investors with meaningful disclosures tailored to the company's facts and circumstances.

As a result, Brexit disclosures have become more specific, describing the risks relating to the company or business segment, including examples such as how Brexit has affected or may affect the company, its employees, management, operations, and prospects. This article identifies some Brexit-related disclosures that offer more detailed discussions of its effects.

Brexit Disclosures in the Business Section

Item 101(a) (17 C.F.R. § 229.101) of Regulation S-K requires a reporting company to describe the general development of its business. In their Brexit disclosures in the Business section, companies have included disclosures describing how Brexit has materially impacted, and could materially impact, the future regulatory regime that applies to their businesses, products, services, and employees in the UK. Here are some examples of Brexit disclosures in the Business section:

- **Offering Registration**

- "EU laws which have been transposed into UK law through secondary legislation continue to be applicable as "retained EU law." However, new legislation such as the EU CTR will not be applicable. The UK government has passed a new Medicines and Medical Devices Act 2021, which introduces delegated powers in favor of the Secretary of State or an 'appropriate authority' to amend or supplement existing regulations in the area of medicinal products and medical devices. This allows new rules to be introduced in the future by way of secondary legislation, which aims to allow flexibility in addressing regulatory gaps and future changes in the fields of human medicines, clinical trials and medical devices. As of January 1, 2021, the Medicines and Healthcare products Regulatory Agency (MHRA) is the UK's standalone medicines and medical devices regulator. As a result of the Northern Ireland protocol, different rules will apply in Northern Ireland than in

England, Wales, and Scotland, together, Great Britain, or GB. Broadly, Northern Ireland will continue to follow the EU regulatory regime, but its national competent authority will remain the MHRA. The MHRA has published a guidance on how various aspects of the UK regulatory regime for medicines will operate in GB and in Northern Ireland following the expiry of the Brexit transition period on December 31, 2020. The guidance includes clinical trials, importing, exporting, and pharmacovigilance and is relevant to any business involved in the research, development, or commercialization of medicines in the UK. The new guidance was given effect via the Human Medicines Regulations (Amendment etc.) (EU Exit) Regulations 2019 (the Exit Regulations). The MHRA has introduced changes to national licensing procedures, including procedures to prioritize access to new medicines that will benefit patients, including a 150-day assessment and a rolling review procedure. All existing EU MAs for centrally authorized products were automatically converted or grandfathered into UK MAs, effective in GB (only), free of charge on January 1, 2021, unless the MA holder chooses to opt-out. After Brexit, companies established in the UK cannot use the centralized procedure and instead must follow one of the UK national authorization procedures or one of the remaining post-Brexit international cooperation procedures to obtain an MA to commercialize products in the UK. The MHRA may rely on a decision taken by the European Commission on the approval of a new (centralized procedure) MA when determining an application for a GB authorization; or use the MHRA's decentralized or mutual recognition procedures which enable MAs approved in EU member states (or Iceland, Liechtenstein, Norway) to be granted in GB." [OmniAb Inc., Form S-1 filed November 30, 2022 (SIC 8731—Services-Commercial Physical & Biological Research)]

- o "Since the regulatory framework in the United Kingdom covering quality, safety and efficacy of pharmaceutical products, clinical trials, marketing authorization, commercial sales and distribution of pharmaceutical products is derived from European Union Directives and Regulations, Brexit could materially impact the future regulatory regime which applies to products and the approval of product candidates in the United Kingdom as United Kingdom legislation now has the potential to diverge from European Union legislation. It remains to be seen how Brexit will impact regulatory requirements for product candidates and products in the United Kingdom in the long-term. The MHRA, the United Kingdom medicines

and medical devices regulator, has recently published detailed guidance for industry and organizations to follow from January 1, 2021 now that the transition period is over, which will be updated as the United Kingdom's regulatory position on medicinal products evolves over time. Brexit has also created uncertainty with regard to data protection regulation in the United Kingdom, and in particular, how data transfers from the European Union to the United Kingdom will be regulated. The European Union and the United Kingdom have agreed a bridging period of up to 6 months to allow the continued free flow of data from the European Union to the United Kingdom, during which time the European Commission will assess whether the United Kingdom will be granted adequacy status. There is no certainty that an adequacy decision will be granted. If it is not, legal uncertainties regarding the flow of data across borders could increase the complexity and cost of transferring personal data from the European Union to the United Kingdom." [Prime Medicine, Inc., Form S-1/A filed October 17, 2022 (SIC 2836—Biological Products, (No Diagnostic Substances))]

- **Periodic Reports**

- o "Across the EU, we are subject to the European Union Alternative Investment Fund Managers Directive ("AIFMD") requirements regarding, among other things, registration for marketing activities, the structure of remuneration for certain of our personnel and reporting obligations. Individual member states of the EU have imposed additional requirements that may include internal arrangements with respect to risk management, liquidity risks, asset valuations, and the establishment and security of depository and custodial requirements. The application of some of these requirements and regulations to our business changed with the exit of the U.K. from the EU ("Brexit"), which became official in January 2020. For example, our subsidiaries that are authorized and regulated by the U.K. Financial Conduct Authority no longer have "passporting" privileges under certain EU directives, such as the AIFMD and the Markets in Financial Instruments Directive II ("MiFID II"), which certain of our specialized funds and customized separate accounts rely upon for access to markets throughout the EU. In preparation for this, we engaged with third-party alternative investment fund managers ("AIFM") based in Luxembourg to replace, prior to Brexit, our U.K.-based AIFM for our funds and certain customized separate accounts for the EU. We have also obtained a MiFID II license for one of our EU-based (non-U.K.) subsidiaries to replace the MiFID II

license held by our U.K.-based subsidiary, which is no longer valid after Brexit. While we believe that taking these steps will help to ensure that we are able to continue to conduct business in the U.K. and the EU after Brexit, there remains some uncertainty as to the full extent to which our business could be adversely affected by, among other things, the legal status of the U.K. in relation to the EU, the political conditions in the U.K., the trade relations of the U.K. vis-à-vis other countries and the economic outlook in the U.K.” [Hamilton Lane Inc., Form 10-K filed May 26, 2022 (SIC 6282— Investment Advice)]

- o “Since a significant proportion of the regulatory framework in the U.K. applicable to our business and certain of our product candidates are derived from EU directives and regulations, Brexit has had, and may continue to have, a material impact upon the regulatory regime with respect to the development, manufacture, importation, approval and commercialization of our product candidates in the U.K. or the EU. For example, the U.K. is no longer covered by the centralized procedures for obtaining EU-wide marketing authorization from the EMA, and a separate marketing authorization will be required to market our product candidates in the U.K. Until January 2023, it is possible for the MHRA to rely on a decision taken by the EC on the approval of a new marketing authorization via the centralized procedure. However, it is unclear whether the MHRA in the U.K. is sufficiently prepared to handle the increased volume of marketing authorization applications that it is likely to receive after such time. Any delay in obtaining, or an inability to obtain, any marketing approvals, as a result of Brexit or otherwise, would prevent us and our collaboration partners from commercializing our product candidates in the U.K. or the EU and restrict our ability to generate revenue and achieve and sustain profitability.” [Myovant Sciences Ltd., Form 10-K filed May 11, 2022 (SIC 2834— Pharmaceutical Preparations)]

Brexit Disclosures in the Risk Factors Section

Item 105 (17 C.F.R. § 229.105) of Regulation S-K requires each registrant to provide a description of the material risks that may affect an investment in the registrant’s securities. For further information, see [Market Trends 2020/21: Risk Factors](#), [Top 10 Practice Tips: Risk Factors](#), and [Risk Factor Drafting for a Registration Statement](#). The disclosure must be in plain English, and not a sweeping general statement applicable to any issuer or offering. For further information

on plain English, see [Top 10 Practice Tips: Drafting a Registration Statement](#). The following are some examples of Brexit disclosures in the Risk Factor section of recent prospectuses and periodic reports.

- **Prospectuses**

- o “Since a significant proportion of the regulatory framework in the United Kingdom applicable to our business and our product candidates is derived from European Union directives and regulations, Brexit has had, and will continue to have, a material impact on the regulatory regime with respect to the development, manufacture, importation, approval and commercialization of our product candidates in the United Kingdom. For example, Great Britain is no longer covered by the centralized procedures for obtaining European Union-wide marketing authorizations from the EMA, and a separate marketing authorization will be required to market our product candidates, including MEAI in Great Britain. It is currently unclear whether the Medicines & Healthcare products Regulatory Agency in the United Kingdom is sufficiently prepared to handle the increased volume of marketing authorization applications that it is likely to receive. Any delay in obtaining, or an inability to obtain, any marketing approvals, as a result of Brexit or otherwise, would delay or prevent us from commercializing our product candidates in the United Kingdom and limit our ability to generate revenue and achieve and sustain profitability. We could face significant additional expenses to obtain regulatory approval for our products in the United Kingdom.” [Clearmind Medicine Inc., Form 42B4 (Final Prospectus - Priced Offerings (F-1)) filed November 16, 2022 (SIC 2834— Pharmaceutical Preparations)]
- o “The European financial markets and the value of the euro have experienced significant volatility, in part related to unemployment, budget deficits and economic downturns. In addition, several member countries of the Economic and Monetary Union (the “EMU”) of the European Union (the “EU”) have experienced credit rating downgrades, rising government debt levels and, for certain EU member countries (including Greece, Spain, Portugal, Ireland and Italy), weaknesses in sovereign debt. Following a referendum in June 2016, the United Kingdom (the “UK”) formally exited the EU on January 31, 2020 (known as “Brexit”). During a transition period where the UK remained subject to EU rules but had no role in the EU law-making process, the UK and EU representatives negotiated the precise terms of

their future relationship, reaching an agreement on December 24, 2020. On December 31, 2020, the transition period concluded and the terms of the new agreement went into effect on January 1, 2021. The complete impact of the new agreement, as well as the full scope and nature of the consequences of the exit, are not at this time known and are unlikely to be known for a significant period of time, but may impact the future direction of the value of non-U.S. currencies or the U.S. dollar and, in turn, affect the value of the Currency Funds. In addition, these uncertainties could increase volatility in the market prices of non-U.S. currencies or the U.S. dollar and, in turn, affect the value of the Currency Funds. The effects of Brexit will depend on agreements the UK negotiates to retain access to EU markets either during a transitional period or more permanently. Brexit could lead to legal and tax uncertainty and potentially divergent national laws and regulations as the UK determines which EU laws to replace and replicate.” [Proshares Trust II, Form 424B3 filed September 29, 2022 (SIC 6221– Commodity Contracts Brokers & Dealers)]

- o “Brexit is expected to disrupt the operation of pre- and post-authorization clinical trial infrastructure. As of January 1, 2021, European Union law applies only to the territory of Northern Ireland to the extent foreseen in the Protocol on Ireland / Northern Ireland. The rules around GMP and pharmacovigilance in the UK currently remain similar to the EU requirements. However, the Falsified Medicines Directive will not apply in Great Britain though it is likely that the UK will implement a procedure to minimize the risk of falsified medicines. Uncertainty in the regulatory framework and future legislation can lead to disruption in the execution of international multi-center clinical trials, the monitoring of adverse events in through pharmacovigilance programs, and determination of marketing authorization across different jurisdictions. There could also be disruption to the supply and distribution as well as the import/export both of active pharmaceutical ingredients and finished product. Such a disruption could create supply difficulties for ongoing clinical trials and may damage the integrity of the pharmacovigilance database for the safety of new products. The cumulative effects of the disruption to the regulatory framework, uncertainty in future regulation, and changes to existing regulations may add considerably to the development lead time to marketing authorization and commercialization of products in the European Union and/or the United Kingdom

and increase our costs. We cannot predict the impact of such changes and future regulation on our business or the results of our operations. Exposure to different and changing regulations in multiple foreign jurisdictions may increase our liabilities, expenses, costs, and other operational losses.” [Alpine Immune Sciences, Inc., Form 424B5 filed September 21, 2022 (SIC 2834– Pharmaceutical Preparations)]

- **Periodic Reports**

- o “On December 24, 2020, the E.U. and the U.K. agreed the terms of a trade and cooperation agreement, which sets out the terms of their future relationship, which we refer to as the Trade Agreement, in connection with the U.K.’s exit from the E.U., commonly referred to as “Brexit.” The Trade Agreement was approved by the U.K. Parliament, and applied provisionally until the end of April 2021, when the European Parliament approved the Trade Agreement. The Trade Agreement offers U.K. and E.U. businesses preferential access to each other’s markets, ensuring imported goods will be free of tariffs and quotas. However, economic relations between the U.K. and the E.U. will now be on more restricted terms than before and there remains uncertainty around the post-Brexit regulatory environment, as the provisions of the Trade Agreement do not cover the services sector. These restrictions may adversely affect our relationships with our existing and future customers, suppliers, employees, and subcontractors, or otherwise have an adverse effect on our business, financial condition and results of operations. The diverging regulatory environments also add additional complexity to our compliance programs. This uncertainty could cause significant economic disruption and further depress consumer confidence and the economy of the U.K., which may cause our customers to closely monitor their costs, terminate or reduce the scope of existing contracts, decrease or postpone currently planned contracts, or negotiate for more favorable deal terms, each of which may have a negative impact on our business, financial condition and results of operations.” [Jacobs Solutions Inc., Form 10-K filed November 21, 2022] (SIC 1600– Heavy Construction Other Than Bldg Const - Contractors)]
- o “The Trade Agreement does not incorporate the full scope of the services sector, and businesses such as banking and finance face uncertainty. In March 2021, the UK and EU had agreed on a framework for voluntary regulatory cooperation and dialogue on financial services issues between the two countries in a Memorandum of Understanding (the “MOU”),

which is expected to be signed after formal steps are completed, although this has not yet occurred. In June 2022, following an inquiry, the European Affairs Committee issued a report which concluded that while the outlook for financial services after Brexit seems relatively positive, the impact of Brexit on financial services would be dependent on political decisions made by the UK and the EU. At this time, we cannot predict the impact that the Trade Agreement, the MOU or any future agreements on services, particularly financial services, will have on our business and our clients. It is possible that new terms may adversely affect our operations and financial results. We continue to evaluate our own risks and uncertainty related to Brexit, and partner with our clients to help them navigate the fluctuating international markets. This uncertainty may have an impact on our clients' expansion or spending plans, which may in turn negatively impact our revenue or growth. The EU Commission has adopted adequacy decisions which will allow personal data to continue to move freely between the EU and the UK until June 27, 2025. While these adequacy decisions have created some certainty for our clients, we will continue to monitor developments which may impact their future validity and extension." [FactSet Research Systems, Inc., Form 10-K filed October 21, 2022 (SIC 7370— Services- Computer Programming, Data Processing, Etc.)]

- o "Brexit has caused significant volatility in global stock markets and fluctuations in currency exchange rates. Brexit has also caused, and may continue to cause, delays in purchasing decisions by our potential and current customers affected by this transition due to the considerable political and economic uncertainty created by Brexit and uncertainty as to the nature of the U.K.'s long-term relationship with the EU. Brexit may further result in new regulatory and cost challenges to our U.K. and global operations, particularly with respect to data protection. Depending on the market and regulatory effects of Brexit, it is possible that there may be adverse practical or operational implications on our business, and prolonged economic uncertainties or downturns caused by Brexit could harm our business and results of operations." [Guidewire Software, Inc., Form 10-K filed September 26, 2022 (SIC 7372— Services- Prepackaged Software)]

Brexit Disclosures in the MD&A Section

Item 303(a) (17 C.F.R. § 229.303) of Regulation S-K requires a discussion of a company's financial condition and changes in financial condition and results of operations, and any known trends or factors that management believes may reasonably be expected to affect the company's results of operations. This includes known trends, commitments, events, or uncertainties that are reasonably likely to have a material impact on the business. The MD&A discussion should not include merely generic or boilerplate disclosures but should reflect how particular facts and circumstances affect the company and its business. For further information on MD&A, see [Management's Discussion and Analysis of Financial Condition and Results of Operations](#) and [Management's Discussion and Analysis Section Drafting Checklist](#). Here are some examples of Brexit disclosures in the MD&A section of recent periodic reports.

- **Business Trends**

- o "The transitional exit of the U.K. from E.U. membership (commonly referred to as "Brexit") could cause disruptions to and create uncertainty surrounding our business, including affecting our relationships with our existing and future customers, suppliers and associates, which could have an adverse effect on our business, financial results and operations. The U.K. and the E.U. signed an EU-UK Trade and Cooperation Agreement (the "TCA"), which became provisionally applicable on January 1, 2021 and was formally approved by the European Parliament on May 1, 2021. The ultimate effects of Brexit will depend, in part, on how the terms of the TCA take effect in practice and on any other agreements the U.K. may make with the EU. Recent effects include changes in customs regulations, shortages of truck drivers in the U.K., and administrative burdens placed on transportation companies, which have led to challenges and delays in moving inventory across U.K./EU borders, and higher importation, freight and distribution costs. If such trends continue, we may experience further cost increases. The TCA and any future trade negotiations could potentially disrupt the markets we serve and the tax jurisdictions in which we operate, adversely change tax benefits or liabilities in these or other jurisdictions, and cause us to lose customers,

suppliers, and associates. In addition, Brexit could lead to legal uncertainty and potentially divergent national laws and regulations as the U.K. determines which E.U. laws to replace or replicate.” [*Helen of Troy Ltd., Form 10-K filed April 28, 2022 (SIC 3634– Electric Housewares & Fans)*]

- **General Economic Conditions**

- “In recent years, the economic indicators in Japan have shown mixed signs, and future growth of the Japanese economy is subject to many factors beyond our control. The current administration of Prime Minister Fumio Kishida and the former administration of Prime Minister Yoshihide Suga have introduced policies to combat deflation and promote economic growth. In addition, the Bank of Japan introduced a plan for quantitative and qualitative monetary easing in April 2013 and announced a negative interest rate policy in January 2016. However, the long-term impact of these policy initiatives on Japan’s economy remains uncertain. The impact of Brexit on the Japanese economy and on the value of the Japanese yen against currencies of other countries in which we generate revenue, in both the short and long term, is also uncertain. In addition, an increase in the consumption tax rate, which took place in April 2014 with a further increase in October 2019, may also adversely impact the Japanese economy, potentially impacting consumer spending, and advertising spending by businesses. Any future deterioration of the Japanese or global economy may result in a decline in consumption that would have a negative impact on demand for our products and their prices.” [*HeartCore Enterprises, Inc., Form 10-K filed March 31, 2022 (SIC 7374– Services-Computer Processing & Data Preparation)*]

- **Regulatory and Legal Environment**

- “As a result of the U.K.’s departure from the European Union (“Brexit”), we obtained authorizations from the AFM for our subsidiaries in the Netherlands in 2019. We now provide regulated services to our clients within the E.U. in reliance on the cross-border services passport held by our Dutch subsidiaries. Brexit has led to an ongoing divergence between the U.K. and E.U. financial regulations, which has made it more difficult and costly to comply with the extensive government regulation to which we are subject. The cost and complexity of operating across increasingly divergent regulatory regimes has increased and is likely to continue to increase in the future.” [*Marketaxess Holdings Inc., Form 10-Q filed April 27, 2022 (SIC 6211– Security Brokers, Dealers & Flotation Companies)*]

- **Results of Operations**

- “Effective January 1, 2021, new visa requirements and other restrictions limit the freedom of movement for British workers to travel to the EU for work, which may impact the ability of the Company’s London office to book modeling photoshoots that take place in the European Union. It may also be more difficult, in the future, for talent represented by Wilhelmina London, but based in the EU, to travel to London and other parts of the UK for photoshoots and campaign work. New immigration sponsorship or visa requirements could discourage fashion brands and other clients from booking as frequently in London, which has historically been an international fashion and modeling hub, and could impact the revenue of the Company’s London operations.” [*Wilhelmina International, Inc., Form 10-K filed March 16, 2022 (SIC 8742– Services- Management Consulting Services)*]
 - “On December 24, 2020 the U.K. and EU agreed upon the terms of their future trading relationship. As expected, the movement of goods between the U.K. and EU is subject to additional regulatory and compliance requirements, which has had, and is expected to continue to have, a negative impact on our ability to efficiently move merchandise in the region. We have realigned our European division’s supply chain to reduce the volume of merchandise flowing between the U.K. and the EU and have established resources and systems to support this plan. The new trade deal provides for zero customs duties and zero quotas on trade between the U.K. and the EU in goods that are produced in each of the U.K. and the EU. However, a portion of the merchandise we source in the U.K. and the EU is produced somewhere else in the world, and therefore is subject to additional customs duty costs under the new trade deal. These additional customs duties and the related operational costs have impacted the profitability of our European division, and may continue to do so, at least in the short term. New immigration requirements between the U.K. and EU countries may also have a negative impact on our ability to recruit and retain current and future talent in the region. In addition to these operational impacts, factors including changes in legislation, consumer confidence and behavior, economic conditions, interest rates and foreign currency exchange rates could result in a significant financial impact to our European operations, particularly in the short term.” [*TJX Companies Inc. /DE/, Form 10-Q filed November 30, 2021 (SIC 5651– Retail-Family Clothing Stores)*]
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- o “While all EU rules and laws continued to apply to the U.K. through the transition period, which ended December 31, 2020, the U.K. and the EU reached a free trade agreement on December 24, 2020, which was ratified on April 28, 2021 and went into effect on May 1, 2021. The agreement includes regulatory and customs cooperation mechanisms, as well as provisions supporting open and fair competition. Under the trade agreement, the U.K. is free to set its own trade policy and can negotiate with other countries that do not currently have free trade deals with the EU. Although the full impact of the trade agreement is uncertain, it is possible that the recent changes to the trading relationship between the U.K. and the EU due to the trade agreement could result in increased cost of goods imported into and exported from the U.K., which may decrease the profitability of our operations. Additional currency volatility could drive a weaker British pound, which could increase the cost of goods imported into the U.K. and may decrease the profitability of our operations. A weaker British pound versus the U.S. dollar may also cause local currency results of our operations to be translated into fewer U.S. dollars during a reporting period. Given the lack of comparable precedent, it is unclear what financial, trade, regulatory and legal implications the trade agreement will have on our business; however, Brexit and its related effects could potentially have an adverse impact on our consolidated financial position and results of operations. The U.K.’s withdrawal from the EU could also adversely impact the operations of our vendors and of our other partners. Our management team has identified areas of concern and implemented strategies to help mitigate these concerns. It is possible that these strategies may not be adequate to mitigate any adverse impacts of Brexit, and that these impacts could further adversely affect our business and results of operations.” [*Meridian Bioscience Inc., Form 10-K filed November 23, 2021 (SIC 2835– In Vitro & In Vivo Diagnostic Substances)*]
- o “The Company continues to monitor the impact on its operations from the United Kingdom’s exit from the European Union (Brexit). To date, there has been an insignificant impact from Brexit. As the total revenue generated by our British subsidiary is immaterial as compared with the Company’s total consolidated revenue, we do not expect the impact to change in the foreseeable future.” [*Computer Task Group Inc., Form 10-Q filed November 9, 2021 (SIC 7371– Services- Computer Programming Services)*]

Brexit Disclosure Enhancements

Brexit brought about significant uncertainties to the future relationship between the UK and the EU, consequences of which are still being felt today. A review of Brexit-related impacts should also cover the potential consequences of the Bill, if and when enacted to law. The Bill, as currently written, will expand Brexit-related impacts on UK- and EU-based companies by potentially altering hundreds or thousands of EU-retained Laws as early as December 31, 2023.

The following steps may be helpful in enhancing the required Brexit-related disclosures in SEC-filed documents:

1. **Identify Brexit-perceived effects.** A company should specify which Brexit-perceived effects have or may have an impact on its business, operations, industry or sector and the steps it is taking to mitigate those risks. It is prudent to monitor and ascertain:
 - a) Whether Brexit or the TCA has or will likely have a material impact on the company’s business, operations, industry or sector
 - b) How foreign direct investments in the UK will be affected by tariffs, trade, regulatory, tax, and other free trade agreements to be entered into by the UK
 - c) The post-Brexit laws and regulations on financial services, intellectual property rights, immigration, employment, environment, supply chain logistics, data protection, and health and safety
 - d) For financial services companies with significant UK operations conducting business in the EU, the effects or potential effects of the loss of passporting that took effect on May 1, 2021
 - e) How the Bill, if passed, may affect those EU-retained Laws applicable to the company’s business and operations, discussing both scenarios where its sunset date is extended and when it is not
2. **Link these effects to potentially affected business segments.** A company should point to the parts of its business that were or are expected to be materially affected by Brexit. Affected units may relate to any of the following:
 - a) A business operation in a geographic region that may be affected if there is a significant disruption in the free movement of goods, services, and people between the UK and the EU

- b) A product formulation being tested and patented in the EU that will be subsequently used in the UK, or vice versa
 - c) A critical group of personnel who may be forced to migrate
 - d) Any of its entities that will likely be affected by increased legal and regulatory complexities, potential disruption to the UK's access to its free trade agreements, consequent changes in tariffs on exported and imported goods, the loss of passporting rights, or similar impacts
3. **Describe, if any, how long the anticipated Brexit effects will last.** A company should thereafter provide a reasonable estimate on the severity of such impacts. It should not only focus on the negative effects on
- financial condition, operating results, and cash flows, but also should underscore any favorable effects Brexit and Brexit-related measures may have on the company's business, operations, industry, or sector.
4. **Mention planned and actual action steps to manage Brexit effects.** A company should also specify:
- a) Whether it has or will be required to seek to obtain new licenses or establish new headquarters or move employees
 - b) The probability of an inventory write-downs, fixed asset impairments, or fair market value measurement modifications
 - c) How it plans to address the possible higher potential costs of conducting business in Europe

Anna Pinedo, Partner, Mayer Brown LLP

Anna Pinedo is a partner in Mayer Brown's New York office and co-leader of the Global Capital Markets practice. She concentrates her practice on securities and derivatives. Anna represents issuers, investment banks/financial intermediaries and investors in financing transactions, including public offerings and private placements of equity and debt securities, as well as structured notes and other hybrid and structured products.

She works closely with financial institutions to create and structure innovative financing techniques, including new securities distribution methodologies and financial products. She has particular financing experience in certain industries, including technology, telecommunications, healthcare, financial institutions, REITs and consumer and specialty finance. Anna has worked closely with foreign private issuers in their securities offerings in the United States and in the Euro markets. She also works with financial institutions in connection with international offerings of equity and debt securities, equity- and credit-linked notes, and hybrid and structured products, as well as medium term note and other continuous offering programs.

In the derivatives area, Anna counsels a number of major financial institutions acting as dealers and participants in the commodities and derivatives markets. She advises on structuring issues as well as on regulatory issues, including those arising under the Dodd-Frank Act. Her work focuses on foreign exchange, equity and credit derivatives products, and structured derivatives transactions. Anna has experience with a wide range of transactions and structures, including collars, swaps, forward and accelerated repurchases, forward sales, hybrid preferred stock and off-balance sheet structures. She also has advised derivatives dealers regarding their Internet sites and other Internet and electronic signature/delivery issues, as well as on compliance matters.

Anna regularly speaks at conferences and participates in panel discussions addressing securities law issues, as well as the securities issues arising in connection with derivatives and other financial products. She is co-author of the leading capital markets treatise, *Corporate Finance and the Securities Laws*, published by Wolters Kluwer (sixth ed., updated 2020, 2022); co-author of *A Deep Dive Into Capital Raising Transactions*, published by the International Financial Law Review (IFLR) (2020); co-author of *JOBS Act Quick Start* (IFLR), 2013; updated 2014, 2016); contributor to *OTC Derivatives Regulation Under Dodd-Frank: A Guide to Registration, Reporting, Business Conduct, and Clearing* (Thomson Reuters, first ed. 2014, second ed. 2015, third ed. 2016, fourth ed. 2017, 2020-2021 ed.); co-author of *Considerations for Foreign Banks Financing in the US* (IFLR, 2012; updated 2014, 2016); co-author of *Liability Management: An Overview* (IFLR, 2011, updated 2015); co-author of *Structuring Liability Management Transactions* (International Financial Law Review, 2018); co-author of *Covered Bonds Handbook*, published by Practising Law Institute (PLI) (2010, updated 2012-2014); co-author of the treatise *Exempt and Hybrid Securities Offerings*, published by PLI (2009, second ed. 2011, updated 2014, third ed. 2017, fourth ed. 2022); and co-author of *BNA Tax and Accounting Portfolio: SEC Reporting Issues for Foreign Private Issuers* (BNA Accounting Policy and Practice Series, 2009, second ed. 2012, third ed. 2016, fourth ed. 2020). Anna is also a contributing author to *Broker-Dealer Regulation* (2011, second ed. 2012, updated 2020), published by PLI. She co-authored "The Approaches to Bank Resolution," a chapter in *Bank Resolution: The European Regime* (Oxford University Press, 2016). Anna contributed to *The Future of Bank Funding and Capital: Solutions for Issuers, Opportunities for Investors* (IFR Market Intelligence, 2009). Additionally, Anna co-authored "The Ties that Bind: The Prime-Brokerage Regulation," a chapter in *Global Financial Crisis* (Globe Law and Business, 2009); "The Law: Legal and Regulatory Framework," a chapter in *PIPEs: A Guide to Private Investments in Public Equity* (Bloomberg, 2006); and "The Impact Security: Reimagining the Nonprofit Capital Market," a chapter in *What Matters: Investing in Results to Build Strong, Vibrant Communities* (Federal Reserve Bank of San Francisco and Nonprofit Finance Fund, 2017). Anna is a contributor to PLI's "BD/IA: Regulation in Focus" blog.

Anna is a member of the American Bar Association's (ABA) Committee on the Federal Regulation of Securities, a member of the subcommittee on Disclosure and Continuous Reporting, chair of the subcommittee on Securities Registration, chair of the subcommittee on Annual Review, and a member of the task force on the future of securities regulation.

She has participated in the drafting committee for the ABA's comment letters on such topics as securities offering reform, revisions to the definition of accelerated filer and smaller reporting company, amendments to the accredited investor definition; amendments to the exempt offering framework; and various JOBS Act-related and disclosure effectiveness related matters. Anna also is a member of the ABA Committee on the Regulation of Futures and Derivatives Instruments. Anna is a chair of the Structured Products Association Legal, Regulatory and Compliance Executive Committee. She is a member of the Mortgage Bankers Association's Mortgage REIT Council and a member of the MBA's Secondary & Capital Markets Committee.

Anna is an adjunct professor at the George Washington University School of Law and member of the George Washington University Center for Law, Economics & Finance Advisory Board. She is a member of the Visiting Committee of the Law School of the University of Chicago. Anna was a member of the University of Chicago Legal Forum during her time at the University of Chicago Law School.

Gonzalo Go, Associate, Mayer Brown LLP

Gonzalo D.V. Go III is an associate in Mayer Brown's Corporate & Securities practice. Go represents companies, investment banks and sponsors in public and private offerings of equity and debt securities, including initial public offerings, business combinations with special purpose acquisition companies (SPACs), shelf registration statements, follow-on offerings, medium-term note programs, issuances exempt from registration, investment-grade debt offerings and securitizations. He advises public companies on stock exchange listing applications, maintenance and transfers; securities law reporting and regulatory compliance requirements; and general corporate governance matters.

The International Financial Law Review (IFLR) Americas named Go as Rising Star for 2023. The "VAALCO - TransGlobe merger" he assisted in was shortlisted by IFLR Americas as 2023 M&A Deal of the Year.

Go earned his LLM from Columbia Law School, where he served as a student senator and graduated as the class speaker, a Harlan Fiske Stone scholar and a recipient of the Parker School Recognition of Achievement in International and Comparative Law. He earned his JD, with honors, from the Ateneo Law School and his BS in Accountancy, with honors, from De La Salle University.

Go's prior professional experiences include being (i) a capital markets associate in another global law firm in New York, (ii) an associate general counsel of Jollibee Foods Corporation, a multinational fast-food chain headquartered in the Philippines, where he gained extensive experience in managing legal risks in various business activities, such as business development and expansion, customer relations, operations, real estate, franchising, marketing, human resources, purchasing, finance, corporate communications, tax and government relations, (iii) a faculty member of the Ateneo Law School and (iv) a tax associate at SyCip Salazar Hernandez & Gatmaitan, a top tier law firm in the Philippines. Go is also a lawyer and a certified public accountant in the Philippines.

In the American Bar Association's (ABA) Business Law Section, Go serves as chair of the 2SLGBTQIA+ Subcommittee of the Diversity & Inclusion Committee (2022-present), vice chair of the Annual Review of Federal Securities Regulation Subcommittee of the Federal Regulation of Securities Committee (2022-present) and a Business Law Fellow (2022-2024). He has participated in the drafting committee for the ABA's comment letter on the SEC's proposed rules on SPACs. G was named a 2023 ABA On the Rise - Top 40 Young Lawyer.

Go is a member of the firm's New York Pro Bono Committee.

Marissa Dessor, Associate, Mayer Brown LLP

Marissa Dessor is an associate in Mayer Brown's New York office and a member of the Corporate & Securities practice.

Katrina Codilla, Associate, Mayer Brown LLP

Katrina Codilla is an associate in Mayer Brown's New York office and a member of the Corporate & Securities practice.

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