

SPECIAL SECTION

The United Kingdom

Setting Up An Enterprise In The UK: Opportunities In Abundance

The Editor interviews **Robin Johnson**,
Partner, Eversheds LLP.

Editor: Mr. Johnson, please tell our readers about your professional background.

Johnson: I have been a corporate lawyer for 21 years, for 16 of which I have been at Eversheds. The firm is young, having been established 16 years ago as a result of a number of firms coming together to create a large UK-based practice. Over the years since, Eversheds has expanded its activities overseas, and we now have operations in each of the key jurisdictions in Europe.

My particular responsibilities include looking after the European network in the corporate area. Since 1993 I have been working with U.S. clients – I am now the engagement partner for 15 of the firm's key relationships with U.S. clients – and 95 percent of my practice is acting on behalf of subsidiaries of U.S. corporations or parent organizations. In addition to the more glamorous work, we are engaged in our clients' day-to-day compliance and regulatory work. That includes setting up a variety of structures under a British, Dutch or Swiss holding company, and people are now looking to Ireland as a friendly, favorable environment. We are the only major UK firm with operations in Ireland. Eversheds is the leading partnering firm in Europe.

Editor: Is the political climate in the UK favorable to foreign investment?

Johnson: The UK has one of the most liberal economies in Europe, and there is very little protectionism. As a result, with the passage of time ever fewer of our major companies have remained British-owned. This favorable attitude toward foreign investment and the pre-eminence of London as a financial and insurance global centre has enabled us to project the UK as the gateway to Europe for U.S. companies.

Editor: Does it make any difference whether Labour or the Tories are in power?

Johnson: No. Both parties are liberal in their outlook on trade, and that stability gives us a distinct advantage over a number of European countries, where an election can result in an entirely new trade regime. In light of the fact that the London Stock Exchange represents about 90 percent of all capital raised in Europe, that stability is one of the country's principal strengths.

Editor: Does the government provide tax and other incentives for businesses locating in the UK?

Johnson: The government does not offer tax incentives, but there are incentives to encourage the establishment of enterprises in economically deprived areas. This includes many of the former coal-producing areas of the UK. There are major grants available through regional development agencies, of which there are ten throughout the UK. Indeed, a number of these agencies have offices in Boston, New York, Chicago

and on the West Coast, which is an indication of how important it is to encourage U.S. investment into the UK. The grants these agencies provide relate to training and employment activities, and there are also special zoning areas where localized tax incentives may come into play. As a consequence, a number of Greenfield operations are being established in these areas by U.S. companies.

Editor: What about the quality of the UK workforce?

Johnson: A number of Eastern European countries have now joined the EU, which allows freedom of movement within the EU for their workers. We have experienced an inflow of less skilled workers from Poland and elsewhere in Eastern Europe, resulting in British workers tending to gravitate into the more highly skilled jobs.

In 1997 Tony Blair made a famous statement on the country's future being based on education, education, education. Today the UK has an extraordinary university-trained workforce, and as a result of the investment that has been made in the educational system, this pool of skilled workers is becoming even larger.

There is a general recognition that the UK will play a significant role in the global economy by providing highly motivated and highly skilled, and educated, workers.

Editor: What about the cost of labor?

Johnson: At the moment, there is a distinct advantage to setting up operations in the UK as opposed to the rest of Europe. The UK opted out of a number of EU social policies for employees, including the right of employer and employee to agree on the number of hours the employee should work. In France, that has resulted in a 35-hour work week, enforced by the labor



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unions. In the UK it is possible to opt out of that system, and an employee can agree to work for 40 or 45 hours. In addition, there is more flexibility with respect to downsizing in the UK than in the rest of Europe.

Healthcare in the UK is not a direct cost to the employer, and the national health system covers everyone. While taxes pay for that system, it is important to remember that the maximum direct income tax that an employee must pay is 40 percent, which compares favorably with most other jurisdictions, including the U.S.

Editor: There is an increased emphasis by biotech and other high tech companies on finding locations for research, development and manufacturing. Is the UK a favorable environment for, say, stem cell research?

Johnson: Absolutely. We have been surprised at the reaction to stem cell research in the U.S. There is no such issue in the UK. A number of bioclusters have been established at British

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universities, most notably Oxford, Cambridge, York and Glasgow. The regional development agencies are now actively supporting spinouts from these universities. The UK does not possess the active venture capital industry that the U.S. enjoys, so raising money can be more difficult. Nevertheless, there are significant opportunities for private funding through these academic bioclusters. At Oxford, for example, some £ 25 million has been raised from private sources for a new chemistry facility, and the university's chemistry department is to look for commercial spinout opportunities for investment by the initial contributors to the project. There are very significant opportunities that link private funding with academia in the UK.

Editor: Does the government make it possible for employees to move freely, either on temporary or permanent assignment, into the country?

Johnson: There are no limitations on the movement of labor within the EU, and the inflow of workers – particularly from Eastern Europe – has helped our economy. Unlike several other Western European countries, the British people have welcomed such inflow and there has been no rise in ethnic or racial tensions.

For a U.S. national to work in the UK, however, a work permit is necessary. Our office has a specialized prac-

tice which assists clients seeking immigration permits for their U.S. employees coming into the country. The normal rule is that after two years the employee must make application again. The process is not onerous, and provided it is done properly, there is seldom a problem.

Editor: Do such employees find the UK a desirable place to live?

Johnson: Like the U.S., the UK has been profoundly influenced by immigrants. We have a very large and diverse population, and our values have created a very friendly environment for such diversity. We have, in addition, been influenced by U.S. culture to a much greater extent than our Continental neighbors, and while the UK is not exactly home for the new arrival from the U.S., there is much that is familiar. With respect to the children of such people, our educational system is absolutely top notch. My experience is that U.S. clients who come to the UK find it a very pleasant place to live.

Editor: How about the UK as a place to raise funds for a business?

Johnson: On the venture side, we are not as developed as the U.S. With respect to established enterprises, however, the UK has by far the greatest access to capital of any country in Europe. London is one of a handful of world-class financial centers, and all of the world's greatest financial institutions have a presence there. The UK equity markets are very active, and a

great deal of capital is available for investment. It is no surprise that many of the major U.S. private equity firms have set up offices in London.

Editor: The quality of a country's judicial system is of great importance to those looking to establish a business there. Please tell us about the UK in this respect.

Johnson: We have a long tradition of judicial independence, and the expertise, impartiality and objectivity of our judges is celebrated all across the world. We have also implemented procedures to avoid costly and lengthy litigation. With respect to court proceedings, the UK is the preferred jurisdiction in Europe, and the basic predictability of outcome with respect to such proceedings is one of the principal attractions of setting up business in this country. Let me add, judges are *not* elected in the UK.

Editor: London also attracts considerable international arbitration. To what do you attribute its popularity as a venue for arbitration proceedings?

Johnson: We have a great many arbitration practitioners of top quality, and the rules governing arbitrations import considerable flexibility into the process. This is a reflection of the evolution of globalization over the years, and it provides a great deal of comfort to those who have recourse to it. The process is fair, relatively swift and, on the whole, much cheaper than litigation, all of

which explains London as a popular arbitration destination.

Editor: Would you tell us – in light of Eversheds' experience – about the evolution of law firms in the UK?

Johnson: Eversheds is an example of the large global firm that has developed in recent years in response to the needs of global clients. The tradition of a solicitor instructing a barrister on behalf of a client is very antiquated these days, and we handle a variety of matters that in an earlier day would have been handled by one or the other branches of the profession. This development has brought us much closer to our clients.

Eversheds is strategically committed to growth through expanding its U.S. client base, which means that we are continuously working to enhance our expertise in all aspects of the law that affect these clients. As a consequence, our approximately 3,500 lawyers are able to provide large U.S. companies with the full range of services necessary to conduct business in the UK and Europe.

The common connections between the U.S. and the UK – not least in terms of their very similar legal systems – make it easy to establish operations in the UK as a starting point for Europe and beyond. While there are differences – and it is important to understand how compliance and director and officer responsibilities, for example, may differ in the two countries – there are far more similarities. The opportunities are there in abundance.



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