Transatlantic investment into the UK - opportunity and restrictions

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The USA remains the biggest single source country of foreign direct investment (FDI) into the UK, with Britain making renewed efforts to woo the dollar, but investors need to ensure they have assessed the market sufficiently following legislative changes.

This spring the UK has looked across the Atlantic to reinforce shared values and seek investment and support. From boosting tourism and tech start-ups post-pandemic, to diversifying energy supplies in the wake of the Ukraine conflict, even to take over one of our most successful football clubs.

Whilst recent visits from London Mayor Sadiq Khan and Business Secretary Kwasi Kwarteng have caught the headlines, investment and exports from the US to the UK have never been higher.

Government figures indicate that there are 32,646 US-invested business units in the UK, employing around 1.48 million people and generating an estimated turnover of £672.3 billion - 11.4% of the UK total. US invested businesses accounted for close to a fifth of total turnover in scientific/technical services and the manufacturing sector, plus £238 billion in turnover from financial services alone.

These statistics align with a 2021 survey from the trade association BritishAmerican Business indicating that the largest US companies in the UK were "very confident" of the business environment with 60% of respondents planning to increase investment.

Despite this confidence, investors need to ensure they are well informed about:

- The intricacies of developing and selling products or services to the UK public sector
- Significant changes to the national policy and regulatory environment – stimulated by Britain's departure from the European Union and the Government's flagship 'Levelling Up agenda'
- A more interventionist approach to managing investment in strategically important industries in the name of competition and security.

Attempting to develop a plan to supply, facilitate or directly deliver services within the UK public sector can be a daunting task but there is significant demand for improved outcomes and efficiencies – driven by national policy targets and expectations - if businesses can adapt to the right criteria.

The challenge for investors is that UK Government structures and responsibilities are multi layered and it can be a challenge to identify where political responsibility and operational decision making lies. A common concern expressed is the lack of a 'front door' in the UK for organisations with innovative technological solutions that can deliver improved outcomes for people and organisations.

More significantly for market access and commissioning is when wholesale reorganisation and restructuring of public services occurs, and the rules by which they operate changes.

For example, the most substantial transformation of NHS services and structures has recently been formalised through the Health & Care Act and Integrated Care Systems (ICSs) have become the new responsible bodies for delivery of healthcare regionally. This new approach – explained further in our blog on the Integration White Paper – is a genuinely radical new way of trying to meet the needs of a population's health, but will take a lot of deciphering for everyone involved.

Similarly, the Government is revamping the rules governing public sector procurement to remove barriers to entry and to reward suppliers that deliver value beyond just cost. The new Procurement Bill announced at the Queen's Speech, is the cornerstone of this process and will diverge from EU directives, the intention being to streamline the procurement process to ease accessibility for SMEs and disruptors. The prizes at stake are significant given public procurement amounts to approximately £300 billion per year – around a third of all public expenditure.

Larger investors and multinationals should also be monitoring significant changes in relation to competition policy and Government intervention in mergers and acquisitions that involve strategically important industries.

The National Security and Investment Act that recently came into force enables greater scrutiny of investments in the UK; the Department for Business, Energy & Industrial Strategy (BEIS) and an strengthened Competition and Markets Authority (CMA) will be taking a more coordinated approach to this. The Government and the CMA have already shown a greater willingness to act, with greater FDI into the national telecoms provider BT Group blocked as a matter of national security.

Further still, in the wake of leaving the European Union, the Government has brought forward proposals to reform competition and consumer policy with the objectives of driving innovation, strengthening enforcement against anti-competitive conduct and updating consumer rights. Legislation has yet to reach Parliament but there is significant attention on what may constitute 'potential competition'; and new rules that may prevent international investors from acquiring organisations with technology in development that is yet to be finalised or generate sales.

Once in post, the new US Ambassador to the UK, Jane Hartley, is likely to be hearing much more about these reforms and she will also play a role in negotiations around a new trade deal between the two countries.

GK Strategy are specialists in investor relations and UK policy – our top tips to US investors and business looking at opportunities in the UK are to:

- Engage UK Department of International Trade (DIT) officials at the Embassy in Washington, and the Consulates, to help guide an approach and refer to DIT sector specialists in London.
- Look to US trade associations in the UK – sector specific or more general such as BritishAmerican Business - for support, networks and guidance on navigating the system.
- Ensure you undertake comprehensive due diligence of the UK political and regulatory environment and are assured about the prospects and risk of investing in a specific sector.