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‘Brexit’ and the Boilerplate Clauses in Commercial Contracts

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Please find below the journal abstract of **“‘Brexit’ and the Boilerplate Clauses in Commercial Contracts”** by Paul Aubrecht & Mitja Kovac, published in *Business Law Review*, Issue 6, Volume 40, 2019 edited by Lisa Zoltowska.

Business lawyers and commercial contracting have been stressed by political uncertainty over the past two years. The prospect of states withdrawing from the European Union creates questions for business law scholarship and practitioners. Lawyers drafting contracts for firms conducting business across borders in different jurisdictions have found new ways to address these risks in their contracts using the so-called ‘Quitally’ or ‘Brexit’ clauses. Yet, the question imposed on business law scholarship is whether the existence of these clauses materially changes the options available to the contracting parties, or are they simply an extension of other types of clauses, such as a force majeure clause, or other contracting principles, such as the concept of material change of circumstances found within the Contracts for the International Sale of Goods (CISG)? If existing legal norms are incapable of dealing with the Brexit, are we seeing an emergence of a new legal paradigm? Considering the aforementioned issues, this article seeks to address the issues of whether private contracting is adequately addressing the legal risks of potential devolution and whether current contracting approaches to these risks are adequate and effective.

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