BREXIT: THE FUTURE OF THE CITY OF LONDON

A PERSPECTIVE FROM THE ASSET MANAGEMENT SECTOR

MARCO BOLDINI

BACKGROUND

- Increased political, regulatory and legal uncertainty for the UK markets
  - UK set to leave the Single Market and the Customs Union
  - But, what alternative arrangement will be put in its place? FTA is the aim
- Short timeline for negotiating Brexit
  - risk of “cliff-edge” no deal scenario

TIMELINE

Negotiations began (w/c 19 June)

Q3 | Q4 | **2018** Q1 | Q2 | Q3 | Q4 | **2019** Q1 | 30/3 2019

Phase 1

- Methodology of UK's EU Budget obligations
- Early deal on acquired rights of EU citizens
- Land borders, including Northern Ireland
- Relocation of EU agencies

Phase 2 "if sufficient progress" - TBC Oct but likely to be later)

- Agree figure on UK budget obligations
- Early deal on acquired rights of EU citizens
- Finalise land borders, including Northern Ireland
- "Principles" for a future trade deal
- Transitional measures

Proposal on final agreement drafted by European Commission for Council

European Parliamentary deliberation – Oct-Dec 2018

EU27 deliberation – Nov 2018-Feb 2019

EP consent – simple majority of votes

EU Council Approval by QMV

German Federal Election - 24 September

TBC Italian General Election

Estonian Presidency | *Bulgarian Presidency* | *Austrian Presidency* | *Romanian Presidency*

BREXIT NEGOTIATING TEAMS

KEY QUESTIONS AT THIS STAGE

Does the UK have a clear position yet? What do they want on financial services?

What is the likelihood of a deal being reached in a short time period? Do I need to factor in a 'hard' Brexit

When will the future trade relationship be discussed…and when will it be agreed?

Will we have a transitional relationship? What will be the rules during this time?

What do I tell my clients and counterparties now about how I will continue to meet their needs?

IMPACT ON FINANCIAL SERVICES

UK FINANCIAL SECTOR SHOULD EXPECT TO BE OUTSIDE OF THE SINGLE MARKET

Scenario	Future relationship	Comment
EEA membership (e.g.Norway)	As a member of the EEA, the UK would continue to implement all EU law but have full access to the single market. It would have no impact on the substance of future policy	The UK would have full access to the Single Market in services albeit with no influence over how the rules are drafted. Given that this outcome would have no impact on the free movement of people, it is hard to imagine that this would be acceptable to a UK government.
Bespoke trade deal (e.g. Swiss, Canadian option)	Given the requirement to limit free movement of people, the UK may choose to negotiate a separate trade deal. This could consist of multiple bilateral trade agreements. The extent of the agreement and depth of access would be a subject for negotiation.	The UK would be treated as a third country from a financial services perspective and **would need to seek equivalence**
Customs Union	A customs union gives the UK market access to the EU goods market but not services	The UK would be treated as a third country from a financial services perspective and **would need to seek equivalence**
WTO membership	Access to EU markets under WTO terms.	The UK would be treated as a third country from a financial services perspective and **would need to seek equivalence**
British option	**?**	**?**

UK SECTOR MAY NEED TO RELY ON EQUIVALENCE PROVISIONS

- EU **passport** available to institutions located in the EU and EEA
- Non-EU/EEA firms are treated as a third country. They may be able to access EU markets if their host country is deemed **equivalent**
- But equivalence is not available under all EU laws – absence of equivalence rules would force relocation

Equivalence provisions	No (or limited) equivalence provisions
MiFID/R(professional clients)	MiFID (retail clients) Access to CCPs and market infrastructure
EMIR(Recognition of CCPs and TRs)	CRD IV
CSDR	UCITS
AIFMD (passport or NPPR)	
Benchmarks	

IMPACT ON THE FINANCIAL SECTOR – ASSET MANAGEMENT

- Interactions with clients, counterparties and infrastructure is governed by EU law
- **Listing authority:** Authorisation under UKLA allows for products to be traded on other EU venues under MiFID. Prospectuses would also lose their passport
- **UCITS management firm:** Must be located in the EU hence a relocation will be necessary for management firms. UK UCITS would need to be marketed under a national private placement regime
- **UCITS investments**: UK UCITS likely to be treated as non-UCITS investments and subject to 30% limit

IMPACT ON THE FINANCIAL SECTOR – ASSET MANAGEMENT

- **Custody banks:** UCITS depositaries must be located in the same jurisdiction as the fund's domicile, meaning that both the fund and the depositary may need to relocate to the EU

- May need to establish a **Management Company** within an EU27 jurisdiction
  - Firms cannot rely upon the uncertain position regarding third country provisions – no guarantee that the EU Commission will grant equivalence to the UK
  - This is essential in providing retail funds to EU clients under the UCITS Directive as there are no third country provisions

- But, questions over how significant the functions of a Management Company must be, in light of **ESMA's review of outsourcing and delegation**

IMPACT ON THE FINANCIAL SECTOR – GENERAL

- Potential barriers in servicing EU clients (banks, corporates, investors)
- EU regulatory change may exclude UK firms from undertaking EU business
  - UK CCPs of euro-denominated clearing to be subject to enhanced supervision
  - EU outsourcing and delegation rule changes will prevent firms from establishing ‘empty shell’ offices in EU27 countries
- Fragmentation of the EU financial markets could be detrimental to both sides

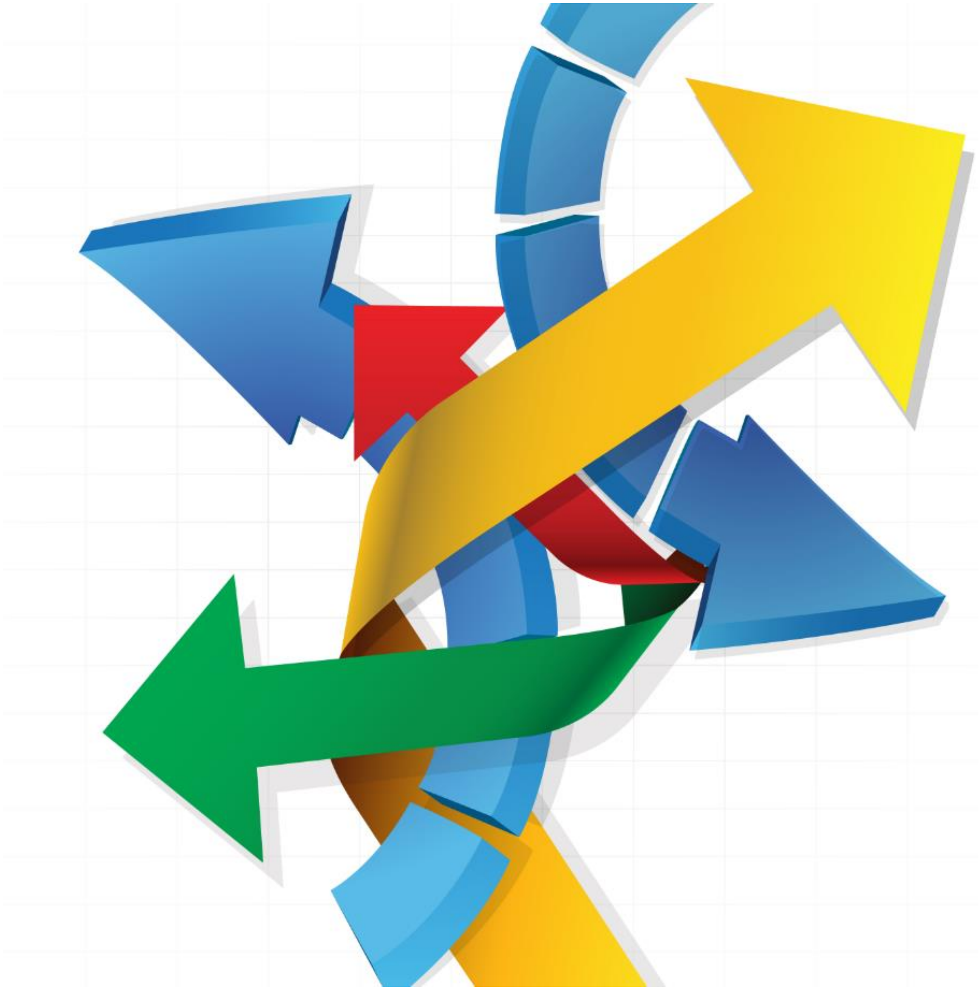
FUTURE UK REGIME

THE REPEAL BILL

- Seven pieces of legislation will sit alongside the Repeal Bill
- Set to come into force on 29 March 2019
- European Communities Act 1972 to be repealed
- All existing EU legislation to be copied across to UK statute book

BUT NOT A SIMPLE COPY-OUT

- Relevance of EU law in UK, in particular:
  - References to EU bodies – e.g. ESMA/EBA/EIOPA
  - Status of UCITS funds (need to be located in EU) – creation of a new regime for UK based on (ex) UCITS funds?
  - How to manage calculations set as a proportion of activity at EU level – e.g. Systematic internalisers, transparency regime, position limits



BREXIT AND BEYOND

- The City of London will survive, but damage limitation is vital
- The UK is a world leader in providing financial services and creating regulation
- Future UK regime depends on the relationship with EU – i.e. will UK have freedom to depart from EU law in key areas?

ANY QUESTIONS?