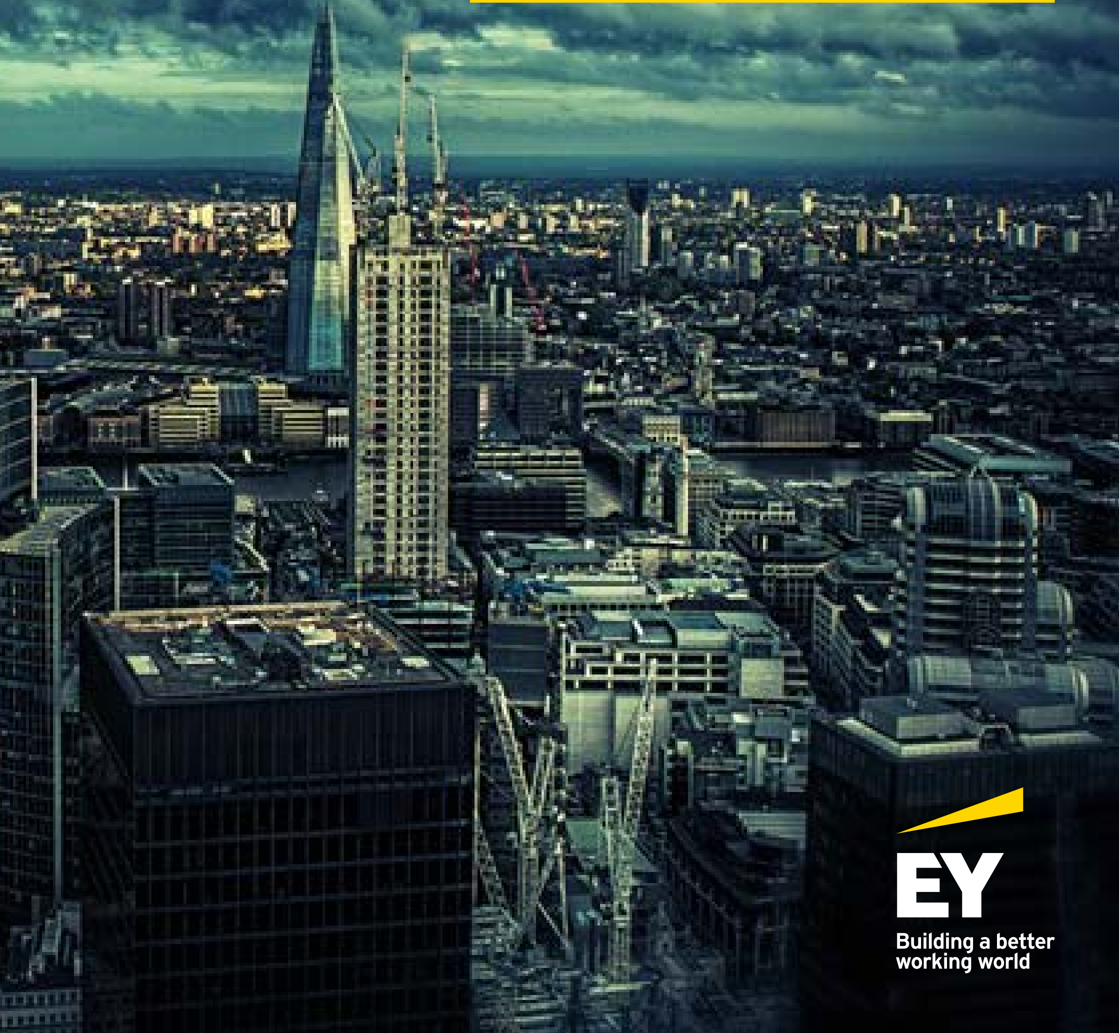
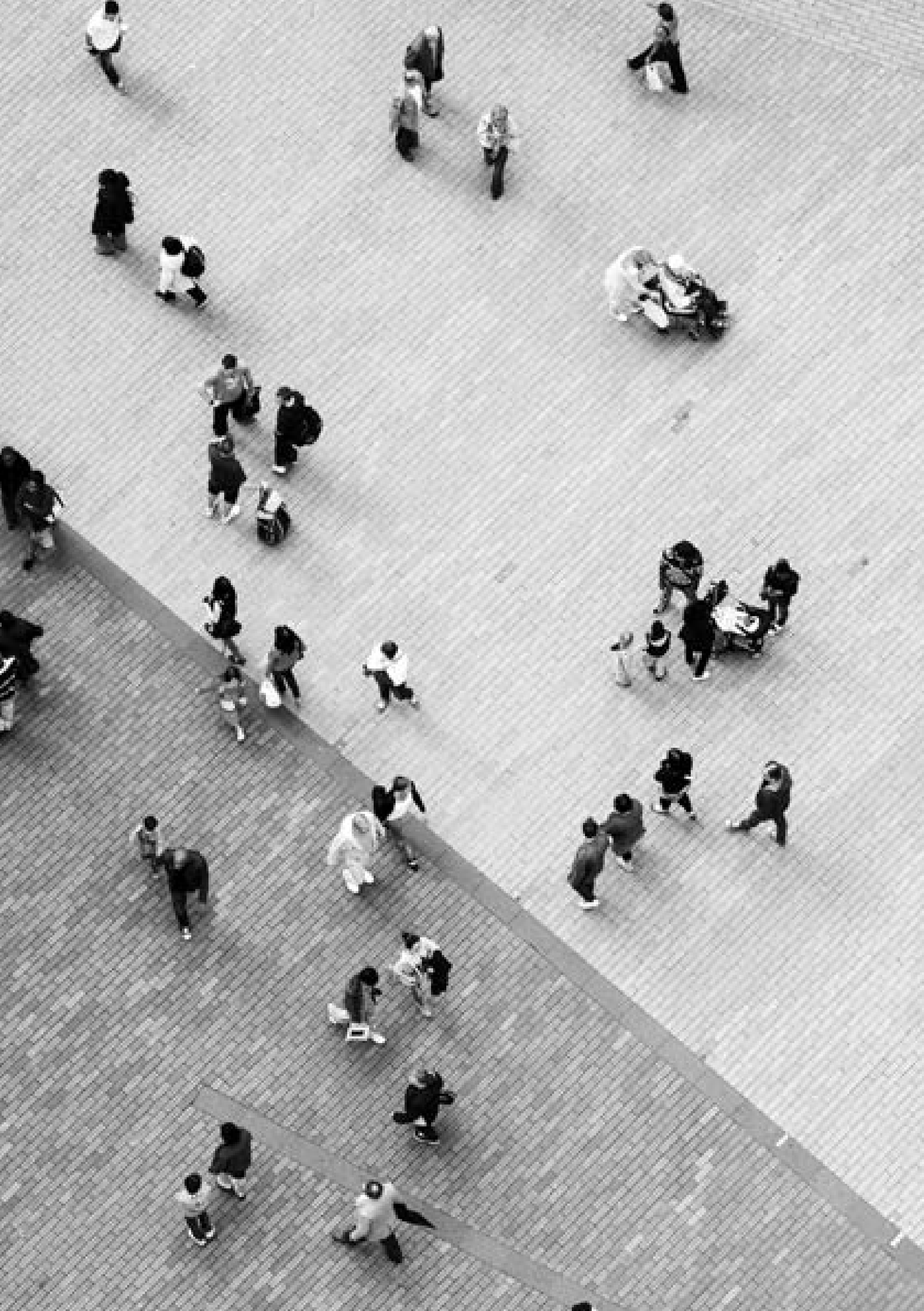
UK-EU — planning for uncertainty

Thinking through the strategic implications



Building a better working world



Preface

Four months have passed since the UK's historic EU referendum vote, and the broad outlines of and possibilities for the UK's future relationship with the EU are starting to become apparent.

However, while the precise mechanics, objectives and negotiation process of Brexit will be heavily debated over the next few months, we may not have full clarity on the eventual EU-UK endgame or any transitional arrangements for some time. Given this uncertainty and perhaps limited time to implement necessary changes, we believe financial services businesses need to consider what the impact of a robust and relatively quick Brexit – i.e., that the UK will leave the EU and cease to remain a full member of all the political and most if not all economic institutions of the EU within the next three years – would be on their strategic, business and operational models.

Even within that baseline, there remains a potentially large spectrum of outcomes. However, we believe that a complete exit from the Single Market and the loss of passporting rights for financial institutions gives the best working hypothesis for strategic planning.

We believe that, since the announcement of the Government's intention formally to notify the EU of the UK's intention to leave the Union (via Article 50 of the Treaty on European Union) by March 2017, the likelihood that the UK will cease to be a Member state by 1 April 2019 is strong. This remains our base case, even if the Government does have to seek Parliamentary approval to serve Article 50 in that timeframe. On the basis of our conversations with financial institutions, politicians, civil servants and other policy experts on both sides of the English Channel, this paper anticipates how such a scenario might play out, from what might influence the negotiation to the ultimate deal.

On this basis, we discuss the broad short-term strategic implications for financial institutions operating in the UK and explore some of the options and questions facing their boards, together with a discussion of the potential longer-term implications for the City of London (henceforth referred to as "the City").

This paper is neither an exhaustive analysis of all possible scenarios, nor is it a forecast. Rather, recognising that time is short and that major strategic decisions will have to be made rapidly, we present a set of assumptions which we believe represent a sensible starting point for strategic planning and for the intellectual challenge that should accompany it. We are grateful to all those who have taken the time to contribute to our thinking and welcome the opportunity to debate and discuss the views presented in this document.

Strategic considerations

The withdrawal of the EU's third largest member country by size of both Gross national product (GNP) and population is highly complex and totally unprecedented. No rules exist either for the process or for the eventual outcome. For example, there is much uncertainty about how the UK can explore future trade agreements while still a member of the EU.

The multiple parties to the negotiations (the UK Government, the governments of the other 27 Member States, the Council of Ministers, the European Parliament, the EU Commission) will in most respects be working in unchartered territory, and in some cases will be fighting for precedence. With the exception of the commission, all have domestic electorates and lobby groups to respond to for whom the collective best interests of the EU may take a back seat. In the UK, there will continue to be debate about just what "Brexit" will mean in practice, and exactly what powers the Government may exercise in concluding its terms without reference to either Parliament or to the electorate. While there is supposed to be "no negotiation" before Article 50 is formally invoked, we can anticipate a period of "shadow boxing" and "kite flying" among all parties in the run up to it.

Our starting point for the hypothetical scenario for strategic planning for boards anticipates the following major assumptions:

- The UK will leave the EU via the Article 50 process with formal notification in the first quarter of 2017, with 1 April 2019 the most likely date for formal exit.
- Brexit is a process rather than an event and there will be twists and turns along the way to a final destination, which is still unclear. It is not impossible that parallel negotiations on exit terms and on the future relationship between the UK and the EU could take place in the two-year period following the submission of Article 50. More likely is a transitional arrangement coming into place on 1 April 2019 with final status negotiations continuing for some years. An extension of the Article 50 process beyond the stipulated two-year deadline is theoretically possible, but we believe unlikely.
- Efforts from pro-EU politicians and others in the UK to delay or stop Brexit will continue. Some of these could destabilise UK Government strategy.
- There will ultimately be a bespoke deal between the EU and the UK. There will be some elements drawn from other models (EEA; Switzerland; WTO; Norway for example) but the eventual deal will be unique and UK-specific.

- There will be compromise on both sides on the key issues of immigration and the Single Market. The UK will impose some restrictions on the rights of EU citizens to live and work in the UK (although visa-free freedom of travel will remain), and the EU will curtail UK access to the Single Market in some areas. EU citizens currently resident in the UK will have their right to remain "grandfathered" and vice versa.
- Financial services will not be prioritised by UK Government in negotiations and some trade-offs will be made in favor of other sectors of the economy and migration control.
- The City of London will remain Europe's pre-eminent financial centre for the foreseeable future, although its mix of activities will change substantially (not necessarily solely as a consequence of Brexit). Brexit may serve as a catalyst for a "Big Bang II" in the City.
- From a financial regulatory perspective, the UK will pass the "equivalency test" in most areas and in practice will retain many rights to operate in the EU, but this is unlikely to be through current passporting mechanisms. That said, equivalency determinations may take some considerable time. There will be no relaxation of regulation on UK-based Financial Institutions (FIs) by the domestic regulatory authorities, and indeed in some areas tougher standards are to be expected.
- The vast bulk of existing EU legislation relating specifically to FIs and currently incorporated into UK Law will remain largely unchanged for the foreseeable future. (Nor will there be a bonfire of laws and regulations in other fields, such as employment for example).
- The UK will be firm in its approach to EU groups looking to set up regulated entities in the UK, and will not adopt a "regulation-lite" attitude.
- There will be escalating political and economic evolution in the EU, with a distinct possibility of the Eurozone realigning into a politically and economically integrated "core" allied to an outer ring of "Associate Member States" who retain close economic but few institutional political links.
- Sterling depreciation will continue to provide some stimulus to the UK economy but there will be short-term positive and negative fluctuations in business confidence in response to news about the progress of negotiations. Monetary policy will continue to remain lax with interest rates close to the zero bound indefinitely.
- There will not be a second Referendum on EU membership in the UK but internal politics within UK parties could result in an early general election with the UK-EU relationship being the principal issue.
- For the City, this will be evolution not revolution.

Many moving parts

Brexit represents a massive challenge to the EU, its institutions and the 27 remaining member states. Not only will the negotiations be resource-consuming, complex and at times highly charged, but the fact that such a significant member state has voted to leave brings into question the whole future shape and direction of the European project itself.

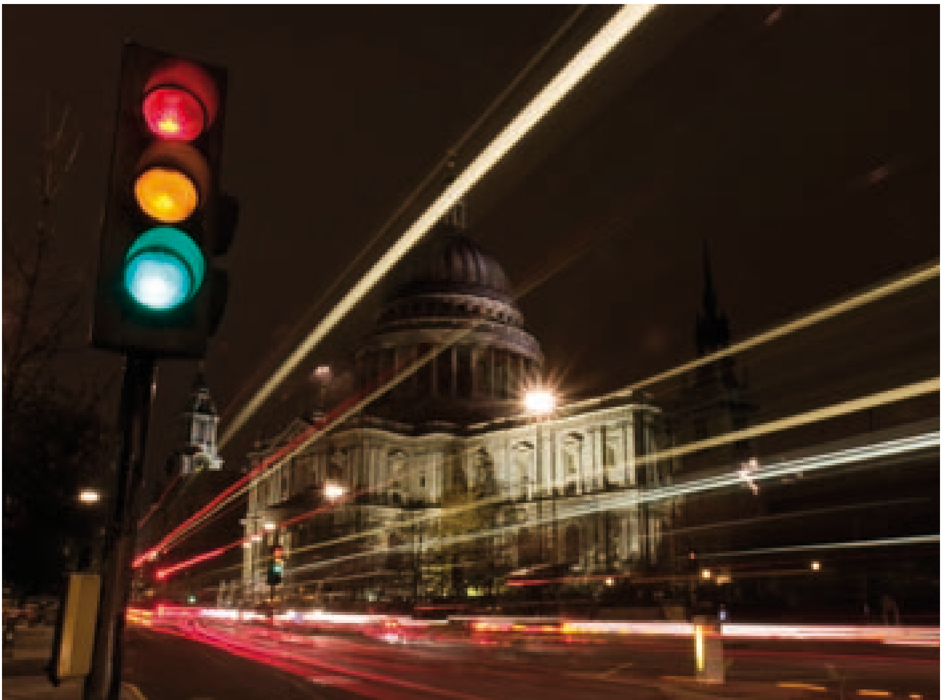
For this reason, there will be voices counselling that the exit terms for the UK should be necessarily difficult in order to discourage others from leaving. Others will argue that the UK's decision should serve as a wakeup call to the rest of the EU and that constructive and fundamental reforms are required if others are not to consider following the same route.

On other fronts, the EU still faces the major strategic challenges of continued subdued economic activity particularly in the Eurozone; the problems seen in the banking systems of several euro area states, including most recently in Italy; the still unresolved financial crisis in Greece; the major issues posed by mass immigration and the associated rises in nationalism in some countries leading to the partial suspension of the Schengen accords on free movement; the unresolved Transatlantic Trade and Investment Partnership (TTIP) negotiations with the United States; the stalled Comprehensive Economic and Trade Agreement (CETA) with Canada; and scepticism about the EU and its institutions in a number of countries.

A variety of scheduled major political events within the EU and some member states will potentially have significant implications for the political geometry within the EU and by extension for the course of the Brexit negotiations. Consequently the UK Government will be holding bi-lateral negotiations with ever-changing organisations and personnel. A comprehensive overview is Shown on page 6 of which highlights include:

- A recent referendum in Hungary on the country's stance to immigration with implications for the overall EU approach to mass migration and the application of Schengen accords in the CEE member states in particular.
- A constitutional referendum in Italy on December 4th where defeat for the government could lead to a general election, the accession to power of parties with strong anti EU views, and further complications in the resolution of the banking crisis in that country.
- A re-run of the Austrian presidential election with the potential to place strain on relationships between Austria and the European Commission.
- Another general election in Spain to attempt to resolve the parliamentary deadlock which is currently responsible for political uncertainty in that country.

- The US Presidential elections in November, 2016 which will have an inevitable impact on world political and economic affairs.
    - Next year, 2017, sees a run of European national elections, with parliamentary elections in The Netherlands (March), French presidential and legislative elections (April and May respectively), and federal elections in Germany (September). In each of these elections, candidates include individuals and parties currently with considerable support who profess antipathy to either the EU or the euro or both. Electoral success for any of these groupings could lead to significant policy switches in these major EU countries with direct implications for the Brexit negotiations.
- In February 2017, Switzerland faces a deadline for implementation of curbs on immigration which the electorate approved in a 2014 referendum. This could trigger a crisis in EU – Swiss relations since all EU – Swiss bilateral accords could be legally abrogated should Switzerland curtail free movement of EU citizens into the country.
- The next EU Parliamentary elections are in June 2019 (although presumably now not in the UK) and MEPs will have the power to veto any or all of the provisions in an eventual draft UK-EU agreement.



Global political and gover

European political events

European national elections

- Romania – December 2016
- Slovakia – March 2016
- Spain – June 2016
- Lithuania – October 2016
- Luxembourg – October 2017
- Czech Republic – October
- France – April 2017
- Netherlands – March 2017
- Germany – September 20

European Union events / European Parliament (EP) / EP Parties / Selection of new commission

European Council summits

- 18-19 February
- 17-18 March
- 23-24 June
- 20-21 October
- 15-16 December

Economic and Financial Affairs Council summits

- 15 Jan
- 12 Feb
- 8 Mar
- 25 May
- 17 Jun
- 12 Jul
- 11 Oct
- 8 Nov
- 16 Nov
- 6 Dec

Updates expected Dec 2016

Updates expected Jun 2017

Transatlantic Trade and Investment Partnership negotiations – May and July

European Banking Authority stress test: 29 July

TTIP negotiations: dates to be determined

Council of the EU

- Jan-Jun: Netherlands
- Jul-Dec: Slovakia
- Jan-Jun: Malta
- Jul-Dec: Estoni

Other European events

- Swiss Referendum on public financing – 5 June
- UK EU Referendum – 23 June
- Hungarian migration referendum – 2 October
- Italian Constitutional Referendum – December
- Austrian Presidential election retake – December
- 1 January-31 March: Period in which UK Government will trigger Article 50
- Swiss-EU trade agreement deadline on implementation of Swiss migration referendum – February

Pre-2016 | 2016 | 2017

Rest of world

Major national elections

- Australia – July 2016
- USA – Nov 2016

US election cycle

- Republican convention – June 2016
- US election – November 2016
- Democratic convention – July 2016
- Inauguration of US President – January 2017

Economic data releases

- G20, China – 4-5 September 2016
- Annual International Monetary Fund and World Bank Group meetings – 7-9 October 2016
- G20, Germany – 7-8 July 2017

Debt repayment

			2016												2017										
Greece	B-	€b	3.5	2.4	5.5	2.7	2.8	5.5	6.3	1	1.8	1.4	1.4	0.3	0.1	0.9	0.8	1.7	0	0.1	7	0.4	0.2	0.3	0
Portugal	BB	€b	11.9												13.6										
Cyprus	BB-	€b				0.1	0.	0.1				0.			0.1	0.1		0.1					0.		

Key

- Rotating Presidency of the Council of the EU
- National election (Parliamentary or General)
- Nationa

rnmental events calendar

2017

017

Cyprus – February 2018

Hungary – April 2018

Austria – September 2018

Italy – Feb 2018

Malta – June 2018

Sweden – Dec 2018

Updates expected Dec 2017

Updates expected Jun 2018

Estonia – March 2019

Finalnd – April 2019

Slovakia – March 2019

Belgium – May 2019

Greece – October 2019

Portugal – October 2019

- European Parliament elections – May 2019
- Selection of President of EU Commission – Jul 2019
- Appointment of College of Commissioners – Nov 2019

Croatia – November 2020

UK – May 2020

Poland – May 2020

Ireland – April 2021

d

ia

Jan-Jun: Bulgaria

Jul-Dec: Austria

Jan-Jun: Romania

Jul-Dec: Finland

Jan-Jun: Croatia

2018

2019

Post-2019

Russia – March 2018

China – February 2018

Brazil – October 2018

Mexico – Jul 2018

Canada – October 2019

South Africa – May 2019

Argentina – October 2019

India – May 2019

Turkey – November 2019

- US midterm elections – November 2018

- Monetary policy decisions of European Central Bank Governing Council every six weeks – ongoing
- Bank of England Monetary Policy Committee meets once a month to set interest rates – ongoing

0.3	4.5	13.8	285
	10.8	15	148.4
	0.1	0.6 0.7	16.4

l election (Presidential)

Priority events

EU summits and elections

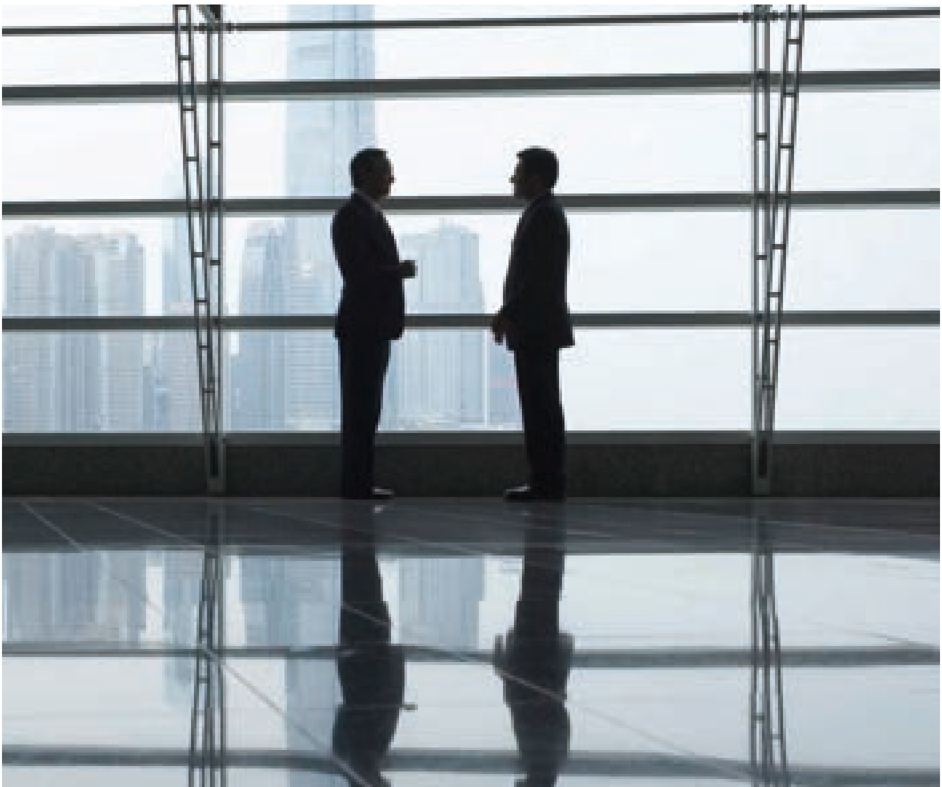
Other political or governmental event

Framing the deal

Since the Brexit vote, some commentators have employed metaphors linked to a failing relationship, on a scale running from "hostile divorce" to "kiss and make up," with the UK deciding to remain within the EU when the Government and electorate comprehend the complexity and implications of leaving.

In previous papers we have discussed in detail a whole range of models as possible templates for a draft deal between the UK and EU. Several models, ranging alphabetically from Albania to WTO, have been suggested and we have explored the merits and drawbacks of each examined from the perspectives of both parties. We do not propose to rehearse those arguments in this publication except to note that elements of some of those models will almost certainly appear in the final deal

It is also worth noting that some of those who campaigned on the Remain side of the



referendum, continue to fight for the UK's continued membership of the EU, either by seeking to reverse the outcome of the referendum or by making the Government's attempts smoothly to negotiate a treaty as difficult as possible. Indeed, as we go to publication (November 2016), the London law firm Mishcon de Reya has successfully won a legal case on behalf of a number of clients designed to prevent the Government from triggering Article 50 without the explicit approval of Parliament. The results of this action could have a significant impact on the politics of triggering Article 50, with parliamentarians from both the Commons and Lords may now be able to reengage in this debate.

At its heart, a final treaty between the EU and the UK will be hammered out around the three arguments which were at the heart of the referendum campaign namely sovereignty, immigration, and market access. Whilst there is a myriad of other detail with which to deal, the final shape of the future relationship between the UK and the EU will depend primarily upon the ability of the UK to negotiate the retention of as much unrestricted access to the EU Single Market as possible whilst simultaneously controlling immigration by EU citizens into the UK, and restricting the jurisdiction of the European Court of Justice (ECJ) on matters of trade. For its part, the EU will be determined not to compromise on its four freedoms (capital, goods, people, and services) without exacting exemplary and difficult terms as the price of access to the Single Market. Because of the UK Government's stated aim of reacquiring control over immigration from the EU, it may well decide to sacrifice some elements of market access.

Ultimately this will be a unique agreement reflecting both the reciprocal importance to each other of the two parties, and the unprecedented reasons for the deal. For example, although the UK is not a member of the EEA, EEA-style provisions in respect of passporting for the majority of financial services may be conceded by the EU in exchange for some if not absolute concessions on immigration, and financial contributions to the EU budget. Although there will be many threats of punitive clauses and retaliation traded in public by parties on both sides of the negotiation (either as a negotiating tactic; or as a rallying cry to a domestic electorate; or perhaps out of genuine belief), for reasons both of emotional attachment but also of hard-headed self-interest, a pragmatic deal could result, even to the point where the UK becomes a de facto if not named "Associate Member" of the EU. This may be presented as a "halfway house" to a full and total exit. It is also possible that Brexit negotiations will become entwined with likely EU treaty reform in the period 2018-2020.

The pressure of time

For financial businesses, time could well be the scarcest commodity. Depending on how quickly clarity is provided around the future UK-EU relationships, at some point businesses will need to make hard choices in order to have the time to execute upon their contingency plans.

The immediate key questions that boards are now considering include:

- What elements of my current business mix are directly dependent upon access to the EU Single Market? What are the specific legal, regulatory or treaty provisions that enable that?
- What indirect elements of UK membership of the EU facilitate or enable some or all of my business activities?
- To what extent does my business rely on EU free movement provisions? This includes my existing employees' right to reside and work, internal and client travel, and future hiring plans?
- What are the worst and best case scenarios for access to the EU Single Market for my preferred mix of financial services and the consequent implications for my business? What remedial actions are open to me?
- Can I anticipate any new opportunities or lines of business as a consequence of Brexit?
- How attractive does London continue to be as a location for some or all of my businesses? Do I need to alter the physical or legal structure of my businesses?

The future shape of the City and the global financial services sector

Financial services and related professional service activities in the UK ("FRPS" in the terminology of financial services lobby group City UK) are a significant component of the UK economy and major contributors to the Exchequer. London – "the City" – is a major global financial services centre with leading positions in all major categories of global financial services activity, including some 35% of all wholesale finance activity in the EU[1].

The City of London is adept at coping with significant shocks ranging from the early twentieth century, through "Big Bang", and the aftershocks of the 2008 financial crash. After the initial reaction to the referendum vote has subsided, reflections on the likely impact of Brexit on the City have not been homogeneous, and range broadly from serious concern in some quarters to a belief in others that Brexit will serve as a catalyst for "Big Bang II", a reprise of the structural revolution that launched the City's tremendous expansion between 1986 and 2008.

Under the former view, significant elements of financial services business (in particular euro

[1] The Importance of Wholesale Financial Services to the EU Economy', The City of London Corporation, 2014

related instruments) might be impossible to conduct in London owing to the UK's exclusion from the Single Market. The growing difficulty and complexity of operating in the EU from a London base could lead to a hollowing out of the City as major financial services firms refocus their European operations to EU members. The contrary view expects that a combination of the negotiated terms of Brexit and the realities of the marketplace, not least in the sheer practical difficulties of relocating major euro related clearing activities out of London, will not lead to significant changes for most businesses. Others portray Brexit as a bump in the road, and envisage a significant expansion in activities in such fields as Renminbi trading, FinTech and alternative finance.

In view of the astonishing diversity of the City, it is unsurprising that there is also a wide range of views about the likely impacts of Brexit, and that one possible classification is governed by the primary nature of institutional activity. At the risk of stereotyping, the current view appears to be that:

- Domestic banks are primarily concerned about the medium term impact of Brexit on the domestic economy.
- International banks based in London are seriously worried about their future ability to access the Single Market and to deploy staff across the EU.
- Asset managers and the significant hedge fund and alternative finance communities have differing views depending on their business models and structures.
- The insurance industry represents a broad swathe of opinions.

Brexit will be just one of the major forces shaping the structure and nature of financial services in the current decade. Just as the political elements of Brexit will be conducted within a complex web of potentially profound political change within Europe, so an explosive compound of environmental changes will affect financial services. These include in no particular order:

- The pivot of the global economy eastwards.
- The demographic challenge in Europe.
- The emergence of new significant competitors.
- The opportunities and threats posed by technological change.
- The change in public perceptions of financial services providers.
- The damage to traditional profit models wreaked by "unconventional" monetary policy and economic stimulus initiatives by central banks.
- A new complexity and stringency in the regulation of financial institutions.

For certain classes of business and types of institution the whole business model itself is being called into question, and survival and reinvention are the key strategic priorities.

It is unquestionable that the manifest advantages deriving from a combination of history (location, language, legislation, political system, quality of life) and cluster effects (physical and professional infrastructures; economies of scale and knowledge; critical mass of market participants; predictable and supportive regulatory environment) will continue to guarantee London's significance as a financial centre at the least in the short term. Some services or indeed entire classes of business may prove difficult or indeed practically impossible to conduct from London in the aftermath of the Brexit deal and as a result. It is likely that some parts of firms or indeed entire firms whose entire business models are predicated on complete unfettered access to the EU Single Market may decide to relocate to the Continent in whole or in part. It is also arguable, and demonstrable, that the critical threats to London in global financial services emanate not from partial exclusion from Europe, painful though that be, but from traditional competitors such as New York and Tokyo, and emerging significant players such as Hong Kong, Singapore and ambitious centres in the Middle East.

In addressing this shift in its strategic position, we do not expect the UK to become a deregulated offshore trading centre. Whilst it is likely that liberation from some of the more stringent elements of EU legislation will be attractive, the UK authorities will not wish to lead a charge to the regulatory bottom, nor to sacrifice London's hard won reputation for regulatory excellence and prudence. However, UK regulatory authorities have demonstrated vision and flexibility in providing a responsive regulatory framework within which new classes of business can develop and prosper — in respect of the nascent crowdfunding industry for example where London has speedily become the most significant location in Europe — and we can expect similar responsiveness in respect of other putative new businesses and activities.

Whilst the effect of Brexit may well prove material for some business models and firms, overall we do not anticipate that Brexit will prove catastrophic for the City or its denizens. Over the last century, The City has shown a formidable capacity for resilience and self-reinvention, and those qualities will continue to be in evidence. In the rear mirror of history, Brexit may come to be seen as a noteworthy but not revolutionary event.

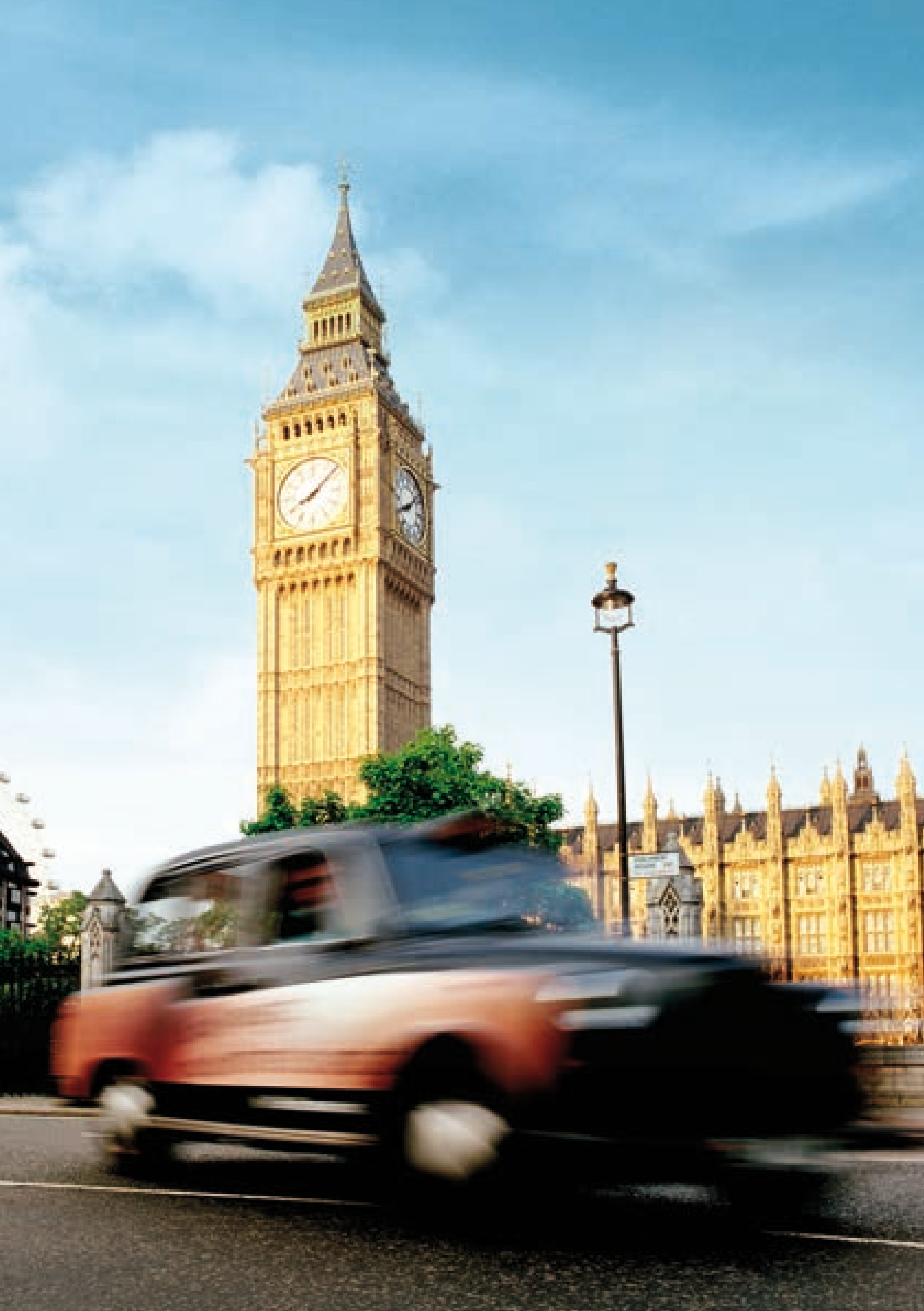
Global financial services comparison

Leading global financial centres and the UK-EU - A Comparison			
Trade Relationship	New York	Hong Kong	Singapore
FS Trade relations with the UK	▶ Several senior politicians made clear that the 'special relationship' is not at risk that a new US-UK trade agreement could be likely given the ease of negotiating versus a new US-EU deal. ▶ The largest US banks have around 70% of their on and off-balance sheet foreign assets in the UK.	▶ Financial Secretary John Tsang visited the UK in 2014 to encourage further investment by UK firms in Hong Kong. ▶ Phillip Hammond has expressed interest in securing trade deals with China but no details around Hong Kong specifically as yet. ▶ In September, the Lord Mayor of London met representatives from HK Monetary Authority, HK Exchanges and the FS Development Council to promote UK-Hong Kong financial and commercial relationships including green finance and Fintech.	▶ The UK is the largest EU investor into Singapore and the fifth largest total source of foreign direct investment (FDI) into Singapore with investments worth over £30 billion and exports of £5.6bn in 2014, accounting for over half of UK exports from UK to ASEAN. ▶ The UK is establishing 'FinTech Bridges' with priority global markets, helping UK FinTechs to expand internationally. ▶ The Monetary Authority of Singapore were among the first to sign such an agreement at the second UK-Singapore Financial Dialogue on 11th May 2016.
FS Trade relations with the EU	▶ In 2013 EU member states voted in favour of the European Commission negotiating a new trade agreement with the US. ▶ The relationship has been mutually beneficial with the US importing narrowly more services than they export to the EU. ▶ Investment drives the relationship with the US investing three times more in the EU than in Asia and the EU eight times more in the US than in India and China. ▶ Brexit has caused some uncertainty around US-EU trade relations given the need for renegotiations.	▶ Hong Kong carries a relatively narrow trade in services deficit with the EU (EUR6.6bn 2014) and spends around EUR1985bn on direct investment in the EU, receiving around EUR1810bn in return. ▶ Bilateral trade relations between Hong Kong and the EU are regularly discussed in annual Structured Dialogue meetings that have been held every year since 2007 involving the European Commission and Hong Kong's government authorities.	▶ The EU and Singapore completed the negotiations for a comprehensive free trade agreement on 17 October 2014. ▶ Over 10,000 EU companies are established in Singapore and it is used as a hub to serve the whole Pacific Rim.

Global financial services comparison

Leading global financial centres and the UK-EU – A Comparison				
Key statistic	London (UK)	New York (USA)	Hong Kong	Singapore
2014 FS trade surplus[2]	Approx. $25bn net trade surplus	$87.3bn FS exports – net surplus $67.6bn	$17.4bn FS exports – net surplus $13bn	$32.5bn FS exports – net surplus $11.8bn
FS as a % of GDP/GCP[3]	17.10%	20%	17.60%	12%
Economist Best Places to do Business Index (2014)[4]	7.44/10 (22nd)	8.25/10 (7th)	8.39/10 (3rd)	8. 65/10 (1st)
Global Financial Centres Index (2015)[5]	1	2	4	3
No. of Domestic Banks Registered[6]	116	Unknown*	Unknown	5
No. of EU Banks Registered	81	Unknown	Unknown	120
No. of Other Overseas Banks Registered	164	Unknown	Unknown	Unknown
No. of domestic companies listed on the stock exchange	1851	1910	1825	483
No. of international companies listed on the stock exchange	514	514	41	286
Assets under management[7]	£6.2 trillion (end 2013)	Unknown	Unknown	Unknown

[2,3] ONS, World Bank, SingStat, Singapore Ministry of Manpower, WTO Statistics, HK Gov Stats, Uk Gov
[4] The Economist
[5] Yen Group
[6] cityoflondon.gov, SingStat (also applies to below two rows)
[7] EFAMA
* Where Unknown, figures are unavailable for this global financial centre.



Tactical checklist

1. Business structure and operations

Financial Institutions with entities situated in the UK and other EU jurisdictions rely on passporting rights and the right of establishment to operate across borders. These rights could be called into question if the UK leaves the EEA and no equivalent arrangement is put in place. These rights now face uncertainty as a new agreement is discussed and membership to the EEA considered.

Specific considerations

- Tax implications of restructuring
- Ring-fenced bank issues
- Capital restrictions
- Potential changes in identity and activities of lead and subsidiary supervisors/ regulators
- Nationality and location of customers
- Review operations to identify where increased legislation or non-EU regulations might impact your business

Preparatory steps

- Consider the location of major trading, booking, distribution and back office activities in light of a number of considerations (e.g., tax and labour cost, consumer protection laws, client proximity)
- Review the configuration of branch, subsidiary and HQ presence within the UK, EU, and elsewhere
- Explore the implications of creating a new corporate structure, for example by establishing a new business/holding company within the Eurozone, and optimising legal entity relationships
- Bear in mind that creating new subsidiaries, transferring staff and activities between locations may be a lengthy process
- Identify key legislation that impacts your business and understand how it is implemented in your business

2. Employment legislation

- EU competition law, including competition and state aid approvals, may well not be applicable in the UK post-Brexit
- Commercial contracts might be impacted, due to material change clauses being triggered, legal jurisdiction and enforcement issues.
- Consider carefully how portfolios of current business are to be transferred between entities. It can be difficult to execute substantial transfers while complying with TCF obligations.
- It could take a degree of time to fully understand the impact of leaving the EU on UK judgements. For example, Court of Justice of the European Union rulings may no longer be binding or create precedents in UK cases.

Preparatory steps

- Review the group's growth strategy until the vote (e.g., hiring entity in the UK vs. EU)
- Plan internal communication to group staff on their employment situation
- Consider enhancements to HR records (status and intention)

3. Taxation

- The UK will no longer be subject to the VAT Directive, which may lead to changes in the UK VAT regime, and create some frictional costs of complying with EU VAT rules going forward
- Operation of direct tax directives for payments between UK and EU entities will fall away, with taxpayers needing to rely on tax treaties, which may not altogether remove frictional tax costs (e.g., withholding tax on dividends and interest)
- Tax implications of groups having to set up new entities and/or transfer business to access EU market, and needing to consider new holding and/or financing structures for EU-based/ UK business
- Possibility of inversions: UK HQ groups (or groups with UK-headed regional hub structure) moving to new EU based parent entity
- UK tax policy: greater freedom for UK in setting tax policy (not subject to e.g., EU state aid rules, or ECJ case law on fundamental freedoms, etc.), but removing the powerful 'brake' of UK voice could make EU corporate tax initiatives coming to fruition more likely with FTT being the most obvious possible example

Preparatory steps

- Assess current tax profile of the group's current European holding and financing structures, as well as location of principal operating entities and places of business
- Consider potential impact of changes to holding and financing structures, especially in relation to tax losses and other tax attributes, tax groupings, existing transfer pricing models (including capital attribution to branches)
- Identify current VAT treatment of cross border supplies and other areas of potential cross border VAT change (especially if changes from branch structure to subsidiary structure)

4. Data retention and transmission

- FIs hosting and processing UK data in an EU country may need to repatriate this data and vice versa. Data transmission may also be impacted
- UK rights from agreements and frameworks derived from EU Data Protection law would potentially be at risk if equivalent arrangements could not be agreed
- The status of 'offshore activities' (i.e., outside the EU and UK) providing services to clients in the EU may be subject to restriction

Preparatory steps

- Review the data archiving infrastructure of the group
- Review contracts in relation to the group's ability to retain/transfer personal information across borders
- Consider any large IT investment or decision in light of the upcoming Brexit

5. Legal

- EU competition law, including competition and state aid approvals, may well not be applicable in the UK post-Brexit
- Commercial contracts might be impacted, due to material change clauses being triggered, legal jurisdiction and enforcement issues.
- It could take a degree of time to fully understand the impact of leaving the EU on UK judgements. For example, Court of Justice of the European Union rulings may no longer be binding or create precedents in UK cases.

Preparatory steps

- Understand the extent to which EU competition law impacts your business and review business strategy in the light of different scenarios post-Brexit
- Review key commercial contracts to identify any concerns that might be triggered at the point of Brexit, or any ongoing concerns around enforceability across the EU

Contacts

Omar Ali

Managing Partner,
UK Financial Services

T: + 44 20 7951 1789
E: oali1@uk.ey.com

David Barker

Managing Partner, EMEIA
Financial Services –
Transaction Advisory
Services

T: + 44 20 7951 2005
E: dbarker@uk.ey.com

John Cole

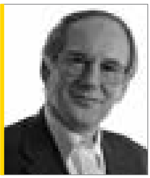
Partner, Head of UK FS
Risk Management

T: + 44 20 7951 3118
E: jcole@uk.ey.com

John Liver

Partner, EMEIA FS
Regulatory Compliance

T: + 44 20 7951 0843
E: jliver1@uk.ey.com



Philip Middleton

Senior Advisor, Head of
Central Banking

T: + 44 7802 615 005
E: pmiddleton@uk.ey.com

Andrew Pilgrim

Director, FS Government

T: + 44 20 7951 6058
E: apilgrim@uk.ey.com

Dr. David P. Doyle

Senior European
Financial Services
Regulatory Advisor

T: + 44 7584 266 899
E: ddoyle@uk.ey.com

Steven Francis

Executive Director,
Legal

T: + 44 20 7806 9021
E: sfrancis@uk.ey.com

Appendix

Interesting post referendum documents

Published by	Title	Date
The Economist	The Brexit briefs	Jun 16
City of London Corporation	Shaping legislation: UK engagement in EU financial services policy-making	Jun 16
Global Counsel	The exit option: How contagious could Brexit be?	Jul 16
EY	UK/EU: Working through uncertainty – Practical considerations for Financial Institutions	Jul 16
FTI Consulting	Brexit and Trade	Aug 16
Bruegel	Europe after Brexit: A proposal for a continental partnership	Aug 16
College of Europe Policy Brief	Brexit lessons from third countries' differentiated integration with the EU's internal market	Sep 16
House of Lords	House of Lords Select Committee on the constitution: The invoking of Article 50	Sep 16
Global Counsel	The future of UK trade policy: the case for regulatory diplomacy	Sep-16
Slaughter & May	Brexit Essentials: The World Trade Organization	Sep 16
Centre for European Reform	Brexit Britain: The poor man of Western Europe?	Sep 16

Notes:

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

EYG no. 03688-164Gbl

EY-000007944.indd (UK) 11/16.
Artwork by Creative Services Group Design.

ED None

ey.com