

17 January 2017

Prime Minister confirms that the UK will exit the EU single market

In a speech made this afternoon, Prime Minister Theresa May confirmed that the UK will leave the European Union (EU) and will not seek membership of the single market. Instead, the UK will seek the “greatest possible access” to the single market via a “new, comprehensive, bold and ambitious free-trade agreement”. Whereas the details of that trade agreement remain unclear, the financial services industry will welcome the fact that there is some clarity with respect to the type of relationship that the UK will have with the EU.

That the UK will be leaving the single market is not unexpected in the financial services industry. There has been much commentary on the impact on the industry if the UK leaves the EU and single market and on the topic of regulatory “equivalence”. The UK financial services industry has always maintained that, following exit of the single market, it will need to retain access to the European markets either by the UK applying for “equivalent” status (where available under an EU Directive) or via a bespoke EU-UK agreement. Otherwise, without continued access, firms may need to set up a presence in an EU location to continue to access EU markets, involving considerable expense. For a discussion on how the current financial services passport regime operates and an analysis on how UK firms can continue to access European markets if the UK leaves the single market, please refer to our [client briefing](#) of 14 July 2016.

There will be some comfort that the Prime Minister has prioritized plans for an agreement that will seek the greatest possible access to the single market and that will include elements of current single market arrangements in areas such as the freedom to provide financial services across national borders. The Prime Minister did not, however, outline the details of the agreement other than that there is no intention to “start again from scratch when Britain and the remaining member states have adhered to the same rules for so many years”. One of the main objectives to achieve the new partnership with the EU is for the Government to provide certainty wherever it can and, on that basis, the Prime Minister confirmed that the same rules and laws will apply on the day after Brexit as they did before. However, the Prime Minister also made it clear that it will be for the British parliament to decide on changes to that law after parliamentary debate.

A Phased Approach

The Prime Minister outlined that part of the Government’s objectives would be to introduce a phased approach – which many of us have been discussing as a potential “transitional arrangement”. The intention is to reach an agreement about the UK’s future partnership with the EU by the time the two-year Article 50 process has concluded. A phased process of implementation will be introduced, according to the plan, in which both Britain and the EU institutions and member states prepare for the new arrangements that will be put in place between the EU and UK. For the industry this is a heartening development and demonstrates that the many voices advocating a practical transitional arrangement have been heard, as opposed to a firm and hard cut-off for existing arrangements.

The exit from the EU will involve a repeal of the European Communities Act and an end to the jurisdiction of the European Court of Justice in Britain. As the European Communities Act is repealed, the “acquis” – the



body of existing EU law will be converted into British law. Once the final deal between the UK and EU has been agreed, the Government will put the proposed deal to a vote in both Houses of Parliament.

Thoughts for the future

Whilst it is useful to get a firmer sense as to the direction of travel that the British Government intends to negotiate, we note that each issue will be a matter of likely detailed negotiation and that much will depend on whether the European Union itself is opened to the suggestion of a phased approach as suggested by the Prime Minister. In any case, what is clear is that there is a lot more to follow in the coming months and years for the financial services industry.

For more detailed analysis of the issues, please contact your usual Ropes & Gray partner. For additional Brexit resources, please refer to the Ropes & Gray [Brexit](#) webpage.

If you have any questions on this Alert or Brexit-related queries, then please contact your usual Ropes & Gray contact or reach out to our UK Asset Management team.

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