

The Weekly Report from Brussels, provided by the European Affairs team at the City of London, provides an update on key developments relating to financial services in the EU.



10 March 2017

Welcome to the Weekly Report, prepared by the City of London European Affairs team.

This week includes:

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More information about the work of the City of London European Affairs team can be found [here](#).

European Council Summit

On 9-10 March, EU heads of government met in Brussels to participate in the [European Council summit](#). Topics discussed during the meeting included the economic situation in the EU, Trade policy and progress on the Banking Union.

On the first day of the summit, Donald Tusk was [re-elected](#) President of the European Council until December 2019, despite opposition from the government of his home country. Beata Szydlo, Prime Minister of Poland, argued that President Tusk had violated his mandate by interfering in Polish national politics. President Tusk's re-election was supported by all Heads of Government except for the Polish Prime Minister, who in response took the rare step of refusing to agree to the final summit statement, meaning that it cannot be interpreted by the Commission as formal conclusions from the European Council.

The main conclusions reached by the other 27 heads of government include:

Economic Situation in the EU:

EU leaders welcomed the improvement in the EU's underlying economic performance, echoing a recent announcement that all EU Member States have recorded periods of positive economic growth. This was coupled by strong unemployment figures, with the number of people out of work at its lowest level since 2009. The Council also called for efforts to be

taken to ensure the sustainability of the recovery through structural reforms and investment in projects which can further reduce unemployment. It was suggested that this could be achieved through an extension of the European Fund for Strategic Investments (EFSI).

Ministers also forcibly encouraged progress to be made on the implementation of the Digital Single Market Strategy in order to deliver increased benefits to consumers and support innovation across the EU.

Trade:

The recent signature of the Comprehensive Economic and Trade Agreement (CETA) and its upcoming, provisional implementation was endorsed by the Council. At the same time, EU leaders urged accelerated progress in free trade agreement negotiations with Mercosur (South American Common Market), Mexico and Japan, as well as a strengthened trade relationship with China. A further Council conclusion centred on the call for the adoption of World Trade Organisation-compliant tools to address and tackle unfair trade practices and market distortions.

Banking Union:

The heads of government reemphasised the need to complete the Banking Union following the **timetable** set by the Council at the end of 2016. This centres on measures to reduce the risk in the banking sector in the EU, including the creation of a European Deposit Insurance Scheme (EDIS). Completing the Banking Union will ensure that the resolution of failing banks and compensation to depositors in the Banking Union will be handled without recourse to taxpayers, and reduce the probability of bank failures by making the banking system more resilient.

Other items that were progressed during the meeting of the 28 EU heads of government include actions relating to security, defence and combatting terrorism (encouraging an agreement on the proposal for an entry-exit system by June 2017) and migration (specifically on progress in implementing operational measures regarding the Central Mediterranean route).

In addition, on 10 March, an informal meeting was held between 27 EU heads of government – without UK Prime Minister Theresa May – to discuss preparations for the **60th anniversary of the Treaties of Rome** on 25 March.

Equivalence rules debated by ECON Committee

On 9 March, the Economic and Monetary Affairs (ECON) Committee held an **exchange of views** with representatives of the European Commission and European Supervisory Authorities (ESAs). MEPs heard from Olivier Guersent, Director General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) at the Commission, as well as the chairmen of the three ESAs, who discussed the process by which third-country financial systems are assessed to determine whether equivalence should be granted, and difficulties with the process. MEPs also questioned how issues arising from the UK's withdrawal from the EU could be managed using existing equivalence legislation.

Background:

Certain pieces of EU legislation in financial services contain equivalence provisions whereby the Commission can, with the technical advice of the ESAs, assess whether the rules applied in a certain non-EU country are equivalent to those applied in the EU. These equivalence clauses aim to achieve three objectives:

- to reduce overlaps in compliance for the EU entities concerned;
- to allow a less burdensome prudential regime in relation to EU financial institutions' exposures to an equivalent third; and
- can satisfy regulatory requirements in the EU to provide EU firms and investors with a wider range of services and investment choices originating from third countries that can satisfy regulatory requirements in the EU.

On 27 February, the Commission published a [working document](#) which provided an overview of equivalence decisions taken by the Commission in financial services.

Latest Developments:

In their opening remarks to the Committee, the representatives of the Commission and the ESAs offered many observations on how previous assessments on equivalence have been carried out and the problems with the current system. Key observations made included:

- As financial markets are global, equivalence has been a useful tool to ensure that internationally agreed standards are applied by third-countries outside of the EU, and that the EU avoids importing undue risk into its financial market;
- Equivalence assessments should be allowed to apply proportionality, so that smaller third-countries, with lower-risk financial markets and limited interconnectedness, should not face the same burdens as larger third-country markets when applying for equivalence;
- It is difficult to discuss equivalence assessments as if it were a single process, as the equivalence provisions are different across financial legislation and some directives (e.g. Solvency II) contain multiple procedures for assessing equivalence;
- In some areas, EU financial firms are disadvantaged when equivalence is granted. For example, under the European Market Infrastructure Regulation (EMIR), EU firms operating in third-countries are required to register with supervisory authorities outside the EU, but third-country firms operating in the EU do not need to register with EU supervisory authorities;
- Once equivalence has been granted, ESAs are only authorised to seek technical information from third-country supervisory authorities on specific issues where risk levels are determined to be different, but not for other areas in general; and
- Regular reviews of equivalence assessments are needed so as to monitor the regulatory developments and practical implementation of the regulations in third-countries.

Following these statements, Burkhard Balz MEP (EPP, Germany) discussed how financial supervision could be applied to the UK following its withdrawal from the EU. He noted that a large majority of derivative transactions are processed by the four authorised clearing houses in the UK, and that current legislation would need to be adjusted if the UK were no longer an EU Member State.

Mr Balz asked whether the Commission might seek some form of oversight in the UK financial system as a condition for the UK being allowed to continue clearing euro derivatives. Additionally, he asked whether equivalence would be a suitable arrangement for the UK following its withdrawal from the EU.

Steven Maijoor (ESMA Chairman) responded to the question on oversight by noting that some equivalence agreements have been reached with Asian financial markets where the EU has some oversight and where the ESAs need to approve some marginal market changes in third-countries. Mr Guersent said the decision on whether to grant equivalence to the UK will fundamentally be determined by the judgement of how much financial risk the EU should allow a third-country to manage, but noted that there would be political, as well as technical, considerations which determine this.

Lieve Wierinck MEP (ALDE, Belgium) recalled that in 2011 the European Central Bank (ECB) called for all clearing of euro derivatives to take place in the eurozone, but it was later determined that the ECB lacked the competence to make this decision. She asserted that equivalence was never designed for significantly important volumes in the context of the UK's withdrawal from the EU and asked whether the Commission should grant the ECB the competence to make this decision.

Mr Guersent responded that such a decision would require unanimity from all Member States, which would be difficult in the short-term and Mr Maijoor highlighted that many other jurisdictions, such as the United States, placed no location requirements on clearing and so such a change is not required.

In other news

- The PANA Committee held a **hearing** on The role of lawyers, accountants and bankers in Panama Papers
 - The European Commission hosted a **workshop** on 'Towards principles and guidance on eID interoperability for online platforms'
 - The Chairman of the Basel Committee **reaffirms** its commitment to finalise post-crisis Basel III reforms
 - The EBA **published** its fourth thematic Comparative Report on Recovery Planning
 - The Commission published a **report** on market developments potentially requiring the use of Article 459 of the Capital Requirements Regulation (CRR) in the past year
 - The Commission **adopted** a Regulatory Technical Standard on key information documents for packaged retail and insurance-based investment products (PRIIPs KID Regulation)
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Upcoming EU Institutions events and consultations

13 March: Deadline for responses to Financial Stability Board [consultation](#) on Guidance on Central Counterparty Resolution and Resolution Planning

17 March: Deadline for ESMA Joint Committee [Discussion Paper](#) on the Use of Big Data by Financial Institutions

17 March: Deadline for responses to Commission [consultation](#) on the capital markets union mid-term review 2017

20 March: Deadline for responses to EBA [consultation](#) on Guidelines on supervision of significant branches

31 March: Deadline for ESMA [consultation](#) on ESMA's Guidelines on transfer of data between TRs

City of London Research

The City of London produces regular research on EU Financial Services which can be accessed [here](#).

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