

An economic partnership based on close and structured cooperation:

Key principles for the management of the future UK-EU relationship in financial services

Introduction

This paper sets out the key principles that should underpin the future economic partnership between the UK and EU from the perspective of financial services operating across the UK-EU border. It is based on the UK-EU Political Declaration¹ and assumes autonomy of decision making for both the UK and EU. It also seeks to minimise the social and economic cost of disruption to capital flows supporting the real economy as a result of the UK's withdrawal from the EU.

The framework for the future relationship in financial services should be based on structured cooperation which:

- ensures autonomy of decision making of both the UK and EU
- aligns closely with international standards to reduce fragmentation
- supports economic growth and investment in the UK and EU, minimising disruption and the social and economic consequences of the changed relationship.

It should also build on existing precedent of EU agreements including, in particular, the dispute settlement mechanism in the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the binding commitments agreed in the EU-Japan Economic Partnership Agreement (EPA), both of which provide useful models.

The industry's proposal on structured cooperation is not a form of mutual recognition and is not calling for regulatory reciprocity.²

Key principles

- A framework that strengthens the processes for granting and withdrawing access to both markets, ensuring greater legal and regulatory certainty, while protecting regulatory autonomy.
- The granting and withdrawal of access should be an autonomous decision for each of the UK and EU. The ability for firms to offer products and services across the EU border should be based on autonomously granted market access but supported by cooperation on regulatory and supervisory matters.
- Where the UK and EU autonomously decide to grant access to their markets on an assessment of the equivalence of their respective regulatory regimes, this should be as determined on a regulatory outcomes basis. These outcomes should be determined by reference to the following shared objectives:
 - financial stability
 - investor and consumer protection
 - fair competition
 - market integrity
 - the prevention of regulatory arbitrage.

1. Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom, October 2019.

2. This note has specifically focused on process and has not opined on the scope of market access and any potential unilateral changes to equivalence.

- Assessments should be determined by reference not only to the content of law and regulation, but also taking into account the approaches of the respective parties to supervision and enforcement. The framework should have strong cooperation arrangements for the supervision of cross border firms. This cooperation should be achieved through a combination of:
 - colleges of supervisors (or similar arrangements) for the supervision of individual firms
 - the formation of a regular and formalised EU-UK Forum comprising regulators and supervisors (see below)
 - appropriate transitional and contractual continuity arrangements to protect consumers and businesses in the event of access being withdrawn.
- While the UK and EU need to maintain their regulatory autonomy, there should be clear and robust processes for granting, maintaining and withdrawing equivalence.³
- To achieve this, a formal EU-UK Forum for regulatory and supervisory dialogue should be established. In addition to supervisory cooperation, its aims should include:
 - taking a consistent approach to changes in regulation or the development of new regulation with a view to avoiding opportunities for regulatory arbitrage
 - cooperating in relation to international standards, both in terms of their development and of their consistent implementation
 - considering the impacts of new initiatives on market operators in each other's markets
 - structured engagement with industry representatives.
- In order to ensure certainty for market participants, and in line with the Political Declaration, there should be an arbitration mechanism to address breaches of agreed process. This should:
 - have efficient and transparent processes, with clear and predictable timeframes
 - make binding judgements, on breach of process only.

3. The EU's equivalence framework can lead to a wide range of outcomes for businesses and third countries, including:

- allowing authorities in the EU to rely on supervised entities' compliance with equivalent rules in a non-EU country
- reducing or even eliminating overlaps in compliance requirements for both EU and foreign market players
- making certain services, products or activities of non-EU companies acceptable for regulatory purposes in the EU
- allowing less burdensome prudential regimes to apply to EU banks and other financial institutions with exposures in equivalent non-EU countries.

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