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Outcomes-focused equivalence is key to delivering the EU's Capital Markets Union

There is broad agreement among regulators, policymakers and market participants on the risks that market fragmentation present to financial and to some extent operational resilience. Last year, the G20 and the FSB recognised that a coordinated policy response is needed to address these risks while IOSCO acknowledged a role for deference in the regulation of capital markets, complemented by measures to strengthen regulatory and supervisory collaboration. Despite this recognition, we continue to observe divergent implementation of global rules, while mutual recognition of rules by regulators is not widely applied.

In the EU, the Capital Markets Union (CMU), which aims to broaden the funding base for European corporates and households, remains a key project. UBS and other global firms want to play a role in making the CMU a success by continuing to facilitate capital, liquidity and investment flows into Europe. The CMU is fundamentally about breaking down barriers to these flows in Europe's capital markets and as such is an important channel through which market fragmentation issues can be addressed. However, achievement of this goal risks being undermined by insufficient trust by host regulators of firms' home regulation, both within and beyond Europe.

The EU has developed an equivalence framework which could become a powerful tool to allow cross-border business to be conducted safely and to high standards, to the benefit of EU firms, households and the overall economy. In order to achieve this, equivalence decisions must be grounded in a technical analysis that focuses on ensuring that third country rules achieve the desired outcome, taking into account relevant international standards; and to deliver legal certainty, the process must be consistent and transparent.

The EU's financial sector is highly integrated with that of key third country partners, including Switzerland, which has substantially reformed its regulatory framework to align with MiFID II standards. Yet the absence of a reliable equivalence mechanism could disincentivise convergence towards the EU, with consequences for businesses, savers and investors both in and beyond the EU if financial integration is eroded. The lapse of EU equivalence for Swiss trading venues just over a year ago illustrates the lack of legal certainty third country partners face with the current system. A more structured and predictable process for equivalence, supported by robust regulatory and supervisory cooperation, would underpin market confidence and stability.

As we look beyond the current concerns with COVID-19, it will be important to deliver clarity on the regulatory framework that will apply at the end of the UK's Brexit transition period as a matter of priority. Even as firms including UBS establish additional EU hubs, the financial sector needs assurance that all relevant equivalence decisions will be in place on both sides and applied by the EU and the UK in a coordinated fashion well before the end of the transition period. Equivalence is key both to avoid any market dislocation and, given that London remains an important centre for liquidity and term funding as well as for European and international talent, to maintain the investment flows that support the functioning of Europe's capital markets.

Going forward, if we are to achieve the full benefits of efficient and safe pan-European and globally-integrated capital markets, any temptation to establish new barriers that could ultimately inhibit the CMU's ability to deliver increased competition, choice and innovation, such as disproportionate requirements on third-country firms wishing to provide cross-border MIFID services to wholesale clients, should be resisted. Building the CMU in a way that integrates an outcomes-focused, transparent and consistent equivalence framework must be a priority. It will lead to more legal certainty, lower costs and higher productivity for all market participants and customers. ●