EU-UK RELATIONS: WHAT PERSPECTIVES?

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EU-UK developments and relations in financial services

More than eight months have passed since the end of the transition period on 31 December 2020 and the establishment of the EU and the UK as two separate markets. Transitional measures put in place by the European Commission (EC), the EU and the UK authorities, as well as preparation by the firms, have proven effective, with no notable market disruption or impact upon financial stability.

Regulatory divergence, on the other hand, while expected, is becoming apparent. This was anticipated since the UK had expressed its intention to regain rule-making autonomy. A natural consequence of the UK withdrawal is that rules in each market follow their own course of evolution and updates. It was only recently, however, that evidence started to emerge as to the direction of such changes, as the UK authorities look into setting a new UK regulatory architecture and the EU is launching new initiatives that will no longer apply to the UK.

Regarding specific changes, ongoing reviews of the prospectus regime, PRIIPs, and rules applicable to the wholesale market have illustrated where the UK intends to move away from existing EU requirements. These reviews provide some clarity on the UK regulatory agenda, but many initiatives are still at their initial consultation stage and further changes could be proposed in due course. The full extent of the EU-UK regulatory divergences is therefore yet to be seen and, given the historic interconnexion between the EU and UK markets, analysing their impact and potential risks is essential. ESMA will be monitoring developments carefully and will provide technical support to the EC, where required.

From a wider angle, the impact of COVID-19 on economies triggered various responses by regulators and supervisors across the globe to ensure the recovery of their markets and economies, including in the EU and the UK. As the effects of the pandemic drag on, further responses to ensure the recovery could be expected in different jurisdictions, which might bring more fragmentation to global financial markets if common objectives are not coordinated. This adds a significant layer of complexity to the work of ESMA and other European authorities.

It is key to ensure that the EU and the UK continue to share common global regulatory objectives and cooperation and information sharing remains operational and constructive.

Against this background, significant divergences will need to be carefully considered by the EC bearing in mind the objective to maintain open and competitive European financial markets, while preserving financial stability and high standards of investor protection. While time limited equivalence decisions were taken to ensure a smooth Brexit transition, the Commission has clearly stated that regulatory equivalence in the area of EU financial services is to be unilateral and in the interest of the EU.

Owing to the lack of certainty in the regulatory landscape, supervisory cooperation has been crucial to Brexit preparation and remains critical in this new phase. ESMA acted promptly by concluding bilateral and multilateral arrangements with the UK authorities to ensure continuous cooperation and exchange of information after the end of the Brexit transition period. These have proved to be useful tools to exchange information on supervisory matters and to effectively remediate risks posed by certain supervised entities. ESMA has established and maintains solid ongoing relations with the UK FCA as part of its coordination of horizontal EU issues as well as in the context of our cooperation in relation to supervisory matters in areas where ESMA has direct supervisory powers.

Looking ahead, it is key to ensure that, in light of the historic interconnectedness of both economies and markets, the EU and the UK continue to share common global regulatory objectives and that cooperation and information sharing between both jurisdictions remains operational and constructive.

On a high note, both the EU and the UK have committed to work towards important global goals, such as assisting the design of sustainable finance standards to improve disclosures and to ultimately attenuate associated risks upon economies and financial markets. Confluence at the international level is of utmost importance to mitigate market fragmentation and effectively regulate financial services which are by nature cross-border.

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An overview of key elements of the EU financial services strategy

A stable and competitive EU financial system is crucial to support our economy and to contribute to sustainable growth for the benefit of all EU citizens. Our priority is the recovery from the Covid-19 pandemic. Extraordinary measures have been adopted to protect households, companies and jobs. The EU banking sector has also benefited from a swift response by public authorities, coordinated at EU level. Having entered this crisis in a stronger position than during the global financial crisis, banks are part of the solution. As the recovery from the pandemic will hopefully continue to gather pace in the second half of this year, now is the time to advance our key strategic priorities.

Achieving further market integration and preserving financial stability and market integrity remain our key policy priorities. In two areas – sustainable finance and digital finance – the pandemic has accelerated change. The EU's ambition on sustainability is set out clearly in the European Green Deal. We have taken substantial steps to enable finance to play its full part in the transition to sustainability. Our sustainable finance package from July this year is a further step in our work to establish a sound framework for sustainable investments, that works for investors, the real economy and financial intermediaries, and that enables the EU to remain a leader in this area.

To ensure efficiency and avoid duplications, it is critical that efforts are coordinated globally, in particular at G20 and FSB level. On digital finance, the Digital Finance Strategy is part of the Commission's overarching priority of making Europe fit for the digital age. Amongst other initiatives, we have brought forward ambitious legislative proposals on operational resilience (DORA) and crypto-currencies (MiCA). As is the case with sustainable finance, international cooperation is key. Delivering a financial system fit for the digital age relies on our ability to work together to set international standards. These standards should promote innovation and safeguard market integrity.

A stable and competitive EU financial system is crucial to support our economy.

The threat posed by money laundering to our financial system is a key concern. The Commission recently presented an ambitious anti-money laundering and counter terrorism financing (AML/CFT) package, including a proposal to create a new authority to fight money laundering. I have no doubt that the measures proposed will significantly enhance the integrity of the EU financial system and the single market. Progress on the Capital Markets Union (CMU) and the Banking Union are more urgent than ever. The Covid crisis revealed, for the second time after the 2008 financial crisis, the opportunity cost of not having strong European capital markets.

Besides the economic recovery, the CMU is key to deliver on all other EU economic objectives including the digital and sustainable transition, a more resilient economy, more competitive European firms, and a globally strong EU. While there are difficult and sensitive challenges to overcome, it is important to remain ambitious. That being said, CMU is a long-term project that needs to be built incrementally.

The CMU is one obvious pillar of the EU's autonomy. Strategic autonomy does not imply protectionism, but rather ensuring a stronger more resilient financial system and minimising financial stability risk. The EU remains committed to an open global economy, international financial markets, and the rules-based multilateral order.

Open strategic autonomy will therefore require further development of the EU's domestic financial system, addressing any over-reliance on financial services provided from third-country sources. Our main objective is to ensure we have an open, strong and resilient economic and financial system, based on solid domestic market infrastructures. As indicated in the Communication on fostering openness, strength and resilience in our economic and financial system published in January 2021, the UK's exit from the EU has exposed some vulnerabilities in our financial system linked to dependence on market infrastructure outside the EU.

Needless to say, the EU will continue to engage actively with the rest of the global financial system – including the United Kingdom – but that engagement will be on a basis that is fair, balanced and so politically sustainable over time. In addition to our high-level strategic financial services priorities, we also continue to focus on other equally important issues. The final set of Basel III reforms in the EU will be key in tackling outstanding problems in bank regulation, and we expect to come forward with a legislative proposal soon. We will also look to strengthen the rules on investor protection in MIFID, and review the MIFIR rules that govern market infrastructure for securities trading in the EU.

Work also continues on the AIFMD review and, in relation to the Solvency II Directive, to ensure the robustness of the regulatory framework, adequacy of prudential requirements and issues related to recovery and resolution.