HOUSE OF COMMONS LIBRARY

BRIEFING PAPER
Number 7628, 1 August 2016

Brexit and financial services

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1. Immediate Reactions

The vote to leave the EU at an as yet unspecified date in the future has severe implications for the financial services sector, an economic sector which is critical to the UK economy. The degree of inter-linkage between the 'City' and the EU economies is substantial economically speaking and intricate in terms of the legislative interface.

This note brings together some immediate responses from relevant organisations. There is no intention to analyse the comments, merely to present what is available as it is published. The choice of material reflects what there was. Other material and commentaries can be found.

A fuller analysis of issues in a wide range of areas can be found in a previous Library Note - EU referendum: impact of an EU exit in key UK policy areas.

All entries are dated 24 June unless otherwise stated. Other material will be added as it becomes available.

1.1 Official bodies

The Bank of England

The Bank of England (through the Prudential Regulation Authority) is responsible for financial stability in the United Kingdom.

> The people of the United Kingdom have voted to leave the European Union.
>
> Inevitably, there will be a period of uncertainty and adjustment following this result. [...]
>
> Some market and economic volatility can be expected as this process unfolds.
>
> But we are well prepared for this. The Treasury and the Bank of England have engaged in extensive contingency planning and the Chancellor and I have been in close contact, including through the night and this morning.
>
> The Bank will not hesitate to take additional measures as required as those markets adjust and the UK economy moves forward.
>
> These adjustments will be supported by a resilient UK financial system – one that the Bank of England has consistently strengthened over the last seven years.
>
> The capital requirements of our largest banks are now ten times higher than before the crisis. The Bank of England has stress tested them against scenarios more severe

> than the country currently faces. As a result of these actions, UK banks have raised over £130bn of capital, and now have more than £600bn of high quality liquid assets.
>
> Why does this matter?
>
> This substantial capital and huge liquidity gives banks the flexibility they need to continue to lend to UK businesses and households, even during challenging times.
>
> Moreover, as a backstop, and to support the functioning of markets, the Bank of England stands ready to provide more than £250bn of additional funds through its normal facilities.
>
> The Bank of England is also able to provide substantial liquidity in foreign currency, if required.
>
> We expect institutions to draw on this funding if and when appropriate, just as we expect them to draw on their own resources as needed in order to provide credit, to support markets and to supply other financial services to the real economy.
>
> In the coming weeks, the Bank will assess economic conditions and will consider any additional policy responses.
>
> Conclusion
>
> A few months ago, the Bank judged that the risks around the referendum were the most significant, near-term domestic risks to financial stability. To mitigate them, the Bank of England has put in place extensive contingency plans.
>
> These begin with ensuring that the core of our financial system is well-capitalised, liquid and strong. This resilience is backed up by the Bank of England's liquidity facilities in sterling and foreign currencies. All these resources will support orderly market functioning in the face of any short-term volatility.
>
> The Bank will continue to consult and cooperate with all relevant domestic and international authorities to ensure that the UK financial system can absorb any stresses and can concentrate on serving the real economy.
>
> That economy will adjust to new trading relationships that will be put in place over time. It is these public and private decisions that will determine the UK's long-term economic prospects. The best contribution of the Bank of England to this process is to continue to pursue relentlessly our responsibilities for monetary and financial stability. These are unchanged. We have taken all the necessary steps to prepare for today's events.
>
> In the future we will not hesitate to take any additional measures required to meet our responsibilities as the United Kingdom moves forward

Bank of England website

Financial Conduct Authority (FCA)

The FCA is the main regulator of financial conduct in the United Kingdom.

> The FCA is in very close contact with the firms we supervise as well as the Treasury, the Bank of England and other UK authorities, and we are monitoring developments in the financial markets.
>
> Much financial regulation currently applicable in the UK derives from EU legislation. This regulation will remain applicable until any changes are made, which will be a matter for Government and Parliament.
>
> Firms must continue to abide by their obligations under UK law, including those derived from EU law and continue with implementation plans for legislation that is still to come into effect.
>
> Consumers’ rights and protections, including any derived from EU legislation, are unaffected by the result of the referendum and will remain unchanged unless and until the Government changes the applicable legislation.

> The longer term impacts of the decision to leave the EU on the overall regulatory framework for the UK will depend, in part, on the relationship that the UK seeks with the EU in the future. We will work closely with the Government as it confirms the arrangements for the UK's future relationship with the EU.

FCA website

1.2 UK financial institutions

Barclays

> Barclays Group Chief Executive Officer Jes Staley said: 'The United Kingdom has voted to leave the European Union. This is a significant decision and there will be many questions asked in the coming days and weeks about what happens next. The answers are complex but our position is not: we will not break our stride in delivering the Barclays of the future.
>
> 'Barclays has stood in service of our customers and clients for over 325 years. We have been here for them through equally profound changes before. And no matter what has been laid before us, we have been here to help them achieve their ambitions.
>
> 'That does not change today. And through the uncertainty of the months ahead, be in no doubt that we are ready to do whatever it takes to uphold that promise.
>
> 'The strategy we announced on 1 March was not conditional on the UK remaining in the EU. We are a transatlantic consumer, corporate and investment bank, anchored in the UK and the US. That remains the core of our strength and the Barclays of the future.'

RBS

> The result of the referendum has been announced. The UK has voted to leave the European Union.
>
> We would like to reassure our customers that the outcome of this referendum should have no immediate impact on their everyday banking services.
>
> We are operating business as usual, please find further information on our FAQs [here].

Santander

> Nothing has changed for Santander UK. There are no changes to the way we serve you and we won't make any changes to our products and services as a result of the referendum without notifying you first.
>
> Your eligible deposits are still protected by the Financial Services Compensation Scheme (FSCS) up to a limit of £75,000. This won't change now that the UK has voted to leave the EU.

Lloyds of London

> Commenting on the vote, Chairman John Nelson, said:
>
> "I am confident that Lloyd's will stay at the centre of the global specialist insurance and reinsurance sector, and I look forward to continuing our valuable relationship with our European partners.
>
> "For the next two years our business is unchanged. Lloyd's has a well prepared contingency plan in place and Lloyd's will be fully equipped to operate in the new environment."

1.3 Other organisations

TheCityUK

TheCityUK is a trade body representing the interests of the City of London. It said:

> The people of the UK have decided that the future of the UK is a new one outside of the European Union. There will be challenges ahead and it will be important for Government and business to work together to address them. Our immediate focus is on stability – in the markets, for investors, and for our industry's customers.
>
> Clear agreement is now needed on the way forward for the forthcoming negotiations as Government shapes a new relationship for the UK with the EU and retains the jobs and investment that the UK has seen to date. For financial and related professional services, the focus is on securing continuing access to the Single Market.
>
> It is vital that action is taken to reinforce the global competitiveness of the UK as a place in which and from which to do business. This will help to mitigate the risk of prolonged uncertainty while a new relationship with the EU is negotiated. We look forward to working with Government on forward-looking policies to help achieve this and to advancing the attractiveness of UK-based financial and related professional services.

Prior to the referendum it had produced *A practitioner's guide to Brexit* which:

> addresses the practical questions businesses need to be aware of in the event of a Brexit and looks more widely at the EU referendum debate. It also considers the UK's post-Brexit trading arrangements with other countries and three alternatives to our current EU membership from the perspective of the financial and related professional services industry.

Travers Smith

Travers Smith is a London law firm with significant experience in the development of European financial services law. It has produced a summary – *Brexit: What is the short term legal impact on UK financial services?* . It begins:

> The UK electorate has voted in support of the UK leaving the European Union. We now expect the UK Government to initiate the process for the UK's departure. This is likely to be complex and there will be a protracted period of negotiations before the long-term position is settled. What are the immediate impacts on the law and regulation applicable to UK financial services firms in the meantime? In short: very little.

And ends:

> Will there be a significant impact in the future?
>
> This will depend in part on the terms of exit which are unlikely to be known for some time. If the UK remained part of the European Economic Area, it would retain access to the single market for financial services and operate within broadly the same regulatory framework. That outcome seems unlikely because the UK would also be subject to EU obligations on the free movement of persons, which was a key theme in the leave campaign. If the UK does not negotiate a trade deal with remaining EU members requiring it to comply with all EU financial services law and regulation, there will be an intense debate about how much of that law and regulation is retained and for how long.

It has produced a longer Brexit document written pre referendum.

New Capital

A pro-market think tank, New Capital, set out the implications (from its pessimistic viewpoint) that City firms will generally be considering in the aftermath in a report -

Beyond Brexit: what happens next for European capital markets? In summary they include:

> **1) Pulling the trigger:** The decision by David Cameron not to pull the trigger on Article 50 means that capital markets will be in limbo for at least the next few months until a new government or Parliament start the clock on the formal two year process of leaving the EU.
>
> **2) First mover advantage:** Banks and asset management firms cannot afford to wait. They have to assume the worst case scenario of complete separation with no access to the single market and start the process of relocating legal entities, operations and staff immediately.
>
> **3) Relocation, relocation, relocation:** In order to future proof their business, banks, asset managers and other market participants will need to have a separately authorised subsidiary with a sufficient management presence inside the EU. Dublin, Frankfurt, Paris and other cities will be vying for that business.
>
> **4) An acrimonious divorce (and a protracted custody battle):** Most firms seem to be planning for an acrimonious divorce. While the divorce process itself may be reasonably swift, the separate negotiations to establish the terms of the future relationship between the UK and the EU will be slowed down by the competing domestic political imperatives in all 28 member states and could take years.
>
> […]
>
> **6) A regulatory backlash?:** Brexit could trigger a concerted regulatory backlash in the rest of the EU against elements of the single market and capital markets union that are seen to play to the UK's advantage, such as the location of euro-denominated clearing.
>
> **7) A loss of influence:** Whatever the outcome, the UK will lose influence over the future direction and nature of EU regulation that it may have to implement. The departure of Lord Hill will significantly change the tone of the future regulatory dialogue.
>
> **8) Equivalence vs divergence:** In order to retain access to the single market from outside the EU, the UK would have to retain an 'equivalent' regulatory framework. While it would be equivalent on day one, over time changes to EU legislation may lead to costly regulatory divergence.
>
> **9) The future of EU citizens:** In some sectors of the capital markets EU27 citizens account for as much as a quarter of all staff in the UK. Assurances over their future legal status have so far been too vague to instil confidence [Note there have been several statements subsequent to this publication which have addressed this question].

2. Subsequent Reaction and Developments

"It all depends"

The commonest response during the month following the result has been "it all depends". In the absence of any clear guidance on what sort of agreement might emerge at some future date as yet to be determined commentators are reduced to guessing what large institutions intend from their pre vote statements. Generally, post-vote comments have been a shade more positive than those made before but this may be because companies (especially publicly listed ones) have to be careful about giving out market sensitive data, so their public statements have been guarded. An article in the Financial Times though, extract below, implied that there had been a Treasury led attempt to co-ordinate a post Brexit response "Officials asked international banks to sign a "more optimistic" joint statement than the one that was eventually published".

The article noted that some banks had refused to go along with this arguing that they were not "cheerleaders". But, even within the banking community there were divisions. Some banks are annoyed at JP Morgan's decision to issue strident public warnings about job cuts.[1]

Currently, as at the time of writing, there have been no actual announcements that a big bank or insurer is pulling out of London or that they have sacked anyone. The one definite statement of intent has come from the European Banking Authority which is the regulator for the euro-zone area. It has announced that it will move from its current London headquarters within the next two years.[2]

What there has been is a lot of talk about what the intentions might be.

A BBC article 30 June 2016 quotes Barclays as saying that it "has no plans to move jobs out of the UK". On the other hand the same article quotes HSBC as saying that 1,000 jobs may go to Paris and JP Morgan saying 4,000 might be relocated.

Existing legislation

With respect to the regulatory framework, the new chief Executive of the FCA, Andrew Bailey, confirmed at the 2016 Annual Public Meeting of the FCA, that whilst the FCA had set up an internal Brexit unit to deal with Brexit specific activity, its main work remained unchanged. Many of the FCA rules were derived from the EU and the FCA would continue to enforce existing rules and work to implement ones that had been agreed, but which were not yet in place. For the Regulator therefore it was 'business as usual'.

Access to markets and staff - passporting

For many years, continued access to overseas staff has been a key concern of many financial institutions in the City. Brexit has sharpened this concern. It is reported that UK asset managers have begun plans to secure visas for their EU staff, and pay the associated costs, if they become necessary.[3] For some companies, about half their staff are non UK residents, and even were visas free or easy to acquire, recent examples of racial abuse have made some staff reconsider their UK futures.

Along with staffing, the main pre-occupation of financial firms has been the potential loss of 'passporting' rights. . In the EU, financial authorisation in one Member State means that the firm can operate and sell in all EU countries because it now has an (authorisation) passport. In the UK context, financial firms like to set up in London – which has lots of advantages over other European cities – get authorisation from the UK authorities and then they can operate across the EU freely. The Bank of England described passporting in its booklet about EU membership: *EU Membership and the Bank of England*

According to a news article the Bank of England has confidentially told EU banks that they won't have to "establish a separately capitalised UK subsidiary" to operate in the UK post exit.[4] No details are publicly available to date.

1 Financial Times 14 July 2016
2 Financial Times 30 June 2016
3 FTfm 1 August 2016, p1.
4 Financial Times 1 August 2016