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Time to Move on Financial Services - for Interim and Future Trade, says leading City lawyer.
Politeia's blueprint for a new treaty sets out framework for free trade under UK law.

Publication: Tuesday 16th July 2019

PDF: [UK and EU Financial Services: the Legal Framework for Free Trade after Brexit](#)

Very shortly the UK will have a new prime minister pledged to leave the EU on 31st October. Future trade - for the long and short term - will be a priority. Whereas Mrs May's rejected Withdrawal Agreement would have subordinated the UK to much EU law, including that for goods trade, services have been a different matter. Both sides have agreed to recognize each other's laws and both have committed to enhanced equivalence for the financial sector. But the doomed Withdrawal Agreement failed to build on that and went instead for a transition period in which the UK would stay in the EU in all but name. That idea has, however, been rejected.

The question now for services is how can the UK move rapidly to ensure continuity after 31st October, especially for financial services trade? How would it work?

In [UK and EU Financial Services: the Legal Framework for Free Trade after Brexit](#), Barnabas Reynolds proposes the legal draft for an immediate enhanced equivalence deal, to be put into effect from Brexit Day, via a chapter in a Free Trade Agreement. Not only have both sides agreed in principle to mutual recognition for future services trade, with enhanced equivalence for financial services, but each recognises that many benefits would accrue.

Each would keep its own laws, each its own legal and economic systems, each would benefit from the UK's expertise, range of services and London's pools of capital. Reynolds, who leads his City law firm's financial and regulatory practice, explains the advantages.

- It would be strong and binding. It would operate under treaty law.
- Each would recognise that the other's laws lead to equivalent high-level outcomes.
- Businesses would trade freely under their own country's laws without additional barriers.
- A treaty-based framework would bring greater certainty and predictability - so businesses and the EU 27 might prefer that framework.

Reynolds warns that the fine print matters and the UK government must take two further steps to avoid the uncertainty that could stymie our businesses through divided responsibility for deciding the laws or by the ECJ having the upper hand.

- First, each legal system should play an equal role in determining what constitutes equivalence, with disputed matters settled by an independent tribunal.
- Second, to ensure continuity with current trade, all the services now traded should be included from the start.

The proposals follow Reynolds' earlier [Template for Enhanced Equivalence](#) and his other publications on which the UK government's position was broadly based. As the Chancellor explained, the UK could not be a rule-taker in this vital sector. Commenting on the proposal, Reynolds says:

This treaty basis will bring immediate continuity, security and success for financial businesses and the consumer. They will have the guarantee of being under UK law and tried-and-tested UK oversight that is equipped to avoid the calamities that haunt the Eurozone.

The author concludes it would be a win win for both parties, also benefitting the EU. It would, he says:

Give Brussels freedom to deal with the domestic markets of the EU27 whilst permitting the cheapest possible, frictionless access for EU27 consumers to the UK's global financial markets.

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The themes will be discussed at a Politeia event, *Financial Services – Transitioning to Free Trade after Brexit*, on Monday 15th July 12.30p.m - 1.30pm at the Oxford & Cambridge Club (71-77 Pall Mall, London, SW1Y 5HD).

Speaking will be:

- **Barnabas Reynolds**, Author, *UK and EU Financial Services - The Legal Framework for Free Trade after Brexit*; Shearman & Sterling LLP
- **The Rt. Hon the Lord Lilley PC**, House of Lords EU Internal Market Sub-Committee
- **Trevor Williams**, Visiting Professor, University of Derby; Chief Economist, Lloyds Bank Commercial Banking (1997-2016)
- **The Rt Hon Nicky Morgan MP**, Chair, Treasury Select Committee

The event will take place on **Monday 15th July 2019, 12.30pm – 1.30pm** at **The Oxford & Cambridge Club, 71-77 Pall Mall, London, SW1Y 5HD** (preceded by a drinks reception from 12.00pm). Journalists are welcome to attend. If you would like to attend, please respond to this e-mail by writing to press@politeia.co.uk with your name, position, phone number and organisation, and we shall put you on the list. If you would like to bring a guest, please let us have the name and contact details.

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UK and EU Financial Services: the Legal Framework for Free Trade after Brexit by Barnabas Reynolds is published by **Politeia**, 14a Eccleston Street, SW1 W9LT, on 16th July 2019, priced £8-00. Hard copies are available to journalists on request from press@politeia.co.uk.

***The Author:** Barnabas Reynolds is a partner at Shearman & Sterling LLP, where he is head of the global financial institutions and financial advisory practice.

He is the author of [*EU-UK Financial Services After Brexit: Enhanced Equivalence – A Win-Win Proposition*](#) and chapters in *How to Leave the EU: What's Best for Britain, Best for the EU?* published by New Direction-Politeia in February 2018 and March 2017 respectively. His other related publications include [*Free Trade in UK-EU Financial Services: How Best to Structure a Brexit Trade Deal*](#), (2018), [*The Art of the No Deal: How Best to Navigate Brexit for Financial Services*](#), (2017), [*A Template for Enhanced Equivalence: Creating a Lasting Relationship for Financial Services between the EU and the UK*](#), (2017), and [*A Blueprint for Brexit: The Future of Global Financial Services and Markets in the UK*](#), published by Politeia in October 2018, November 2017, July 2017 and November 2016 respectively.

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