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'Win Win' Brexit Deal Can Happen for UK-EU Financial Services! City Lawyer Proposes Enhanced Equivalence & Provides Draft Bilateral Treaty and Regulations' Package in next Politeia publication

Publication: Immediate July 2017

PDF Link: [Enhanced Equivalence: EU-UK Financial Services](#)

As Britain's negotiations to leave the EU begin, the spotlight is on future trade with the EU and globally. How can the UK remain one of the world's leading financial centres? What steps are needed to ensure friction-free access with the EU in this flourishing sector and to new trading partnerships globally?

In Politeia's most recent publication [A Template for Enhanced Equivalence: Creating a Lasting Relationship for Financial Services between the EU and the UK](#), Barnabas Reynolds proposes the basis for a 'win win' deal. The author, a leading city lawyer who is head of Financial Institutions Advisory & Financial Regulatory Group at Shearman and Sterling, sets out detailed proposals for a bold and ambitious *enhanced equivalence* framework.

Equivalence is already an accepted basis for trade. Certain areas of US trade with the EU are based on their respective financial sector laws being 'equivalent'. The EU has numerous financial services laws which already contain provisions enabling equivalence determinations to be made and more are soon to come into effect. Reynolds' proposed measure therefore would build on what already exists, but expand and enhance equivalence for future UK-EU trade to cover additional activities in the UK's financial sector in a more predictable way.

The good news is that the ingredients for a Brexit 'win win' deal are already there. Both parties have much to gain:

- The UK (and UK-located global) firms want access to clients across the EU.
- EU firms want access to the deep pools of liquidity and services in London, its international reach and its global and domestic customer base.
- Both want the stability, the predictability and the chance to build on existing business models.
- Both want to avoid businesses having to set up expensive satellites in the EU and for EU customers to bear the brunt of paying for those, through significantly increased costs for capital, pensions, insurance and other investments.

Reynolds also proposes and provides a package for the negotiators which includes:

- A comprehensive draft EU regulation.
- Detailed UK implementation measures.
- A bilateral UK-EU deal.

These could be used as a basis for discussion to be refined and developed in the talks, and not as a take-it-or-leave-it option. There would therefore be much scope for optionality, for points to be negotiated and for different ways of doing things to be developed.

The legal framework outlined here should be welcomed by both sides. In particular it would:

- Promote two way, trouble free access between the UK and EU financial sectors.
- Ensure certainty and dependability of access.
- Protect against systemic risk and taxpayer liability.
- Curb unnecessary costs for EU businesses accessing London's global liquidity pool.

- Preserve the competitiveness of the UK, making for more dynamic rules while conforming to agreed standards.
- Promote harmonious cooperation on new UK-EU regulatory initiatives.

The alternative course would be good for the UK, but less so for the EU: London could become its own free-standing financial centre, compliant with international law but supported by a competitive regime of pro-business tax breaks and slimmed down regulations, a path that many in the UK would welcome. It could help attract new businesses from the EU and globally: they are keen to exploit London's pole position for the financial markets in the European timezones and to enhance their concentrations of liquidity here. That model, however, would be less good for the EU than enhanced equivalence, which would give EU businesses and customers the stability and continuity of the present free trade arrangements and the advantages of operating in London, but without the costs complications of restructuring

As the author writes:

‘An equivalence deal would be a “win win” for both parties. Properly implemented, it could provide a workable basis for continuing closely entwined business, whilst also respecting the UK's and EU's mutual autonomy and sovereignty, as an expression of international comity.’

***Barnabas Reynolds** is an EU and UK regulatory lawyer and Head of Financial Institutions Advisory & Financial Regulatory Group at Shearman and Sterling.

[A Template for Enhanced Equivalence: Creating a Lasting Relationship for Financial Services between the EU and the UK](#) by Barnabas Reynolds was published by Politeia on Monday 10 July.

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