

Issue 5: Lex et Brexit — The Law and Brexit

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As we go to press, the UK cabinet is finally beginning the serious business of drawing up its “blueprint for Brexit”: the objectives and principles that should govern the future relationship with the EU and which will therefore drive the negotiated terms of exit. There are already reported to be tensions within Whitehall. Treasury officials, understandably, view continued access to the single market as critical for the financial sector. Others view the “European Economic Area” (“**EEA**”) model as unrealistic, especially if Brexiteers’ requirements for controls on immigration are to be delivered. It appears, for the moment, that priority will likely be given to immigration controls rather than market access, although the Prime Minister has made clear that the UK will seek a unique trading relationship with the EU rather than any “off the shelf” model. The real challenge for the UK negotiating team, if and when it resolves its internal differences, is whether EU governments will have the time or inclination to negotiate such a bespoke deal for the UK.

In the fifth edition of Lex et Brexit, we consider the impact of Brexit for the anti-trust regime in the UK. We conclude that while the core preoccupations of UK anti-trust regulators are unlikely to undergo major change, the key fascination of Brexit’s impact on the UK anti-trust enforcement landscape may lie principally in what it tells us about governmental industrial policy and the UK regulator’s nimbleness in adapting to change.

We then examine the impact of Brexit on the prospectus regime in the EU. We conclude that the UK’s role in driving capital markets union and further harmonization of prospectus regulation may be greatly diminished. As a result of Brexit, the envisaged ever-increasing path to harmonization of capital markets activity remains, at least from a UK perspective, a vision clouded with uncertainty.

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