

Issue 7: Lex et Brexit — The Law and Brexit

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Despite the protestations of some, the direction of travel in UK Government thinking seems to be towards the negotiation of a “hard” Brexit, meaning limited market access for services and goods to the EU single market. Attitudes also appear to be hardening in other EU member states: the Italian Prime Minister warned during the past week that it would be impossible for the UK to get special treatment post Brexit as compared with other non-EU states. Some of this may be seen as positioning in advance of the substantive negotiations likely to begin next year, but the hardening of public positions does little to reassure the financial services industry and market participants that a sensible bespoke solution for the UK can be found quickly.

In France, perhaps alone among EU countries, we get a clear sense of one of the French Government’s key objectives following the Brexit vote: the supplanting of London’s position as Europe’s financial center by Paris. In the seventh edition of Lex et Brexit, we look at the recently announced initiative by the French regulators to allow some UK financial services firms to use an accelerated process to obtain French regulatory licences. We conclude that this will be a welcome development for some firms planning their response to Brexit, but that other factors will impact on the ultimate success of this initiative.

We then examine the impact of Brexit on the recently introduced EU Market Abuse Regulation. We conclude that Brexit is unlikely to result in a relaxation of the market abuse regime in the UK in any meaningful way or a substantial mitigation of the Regulation’s extra-territorial effects, but there is a possibility that Brexit will allow the UK regulator more freedom to communicate its expectations on market abuse and provide clear guidance to market participants.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

John D. Amorosi

+1 212 450 4010
john.amorosi@davispolk.com

John Banes

+1 212 450 4116
john.banes@davispolk.com

Leo Borchardt

+44 20 7418 1334
leo.borchardt@davispolk.com

Will Pearce

+44 20 7418 1448
will.pearce@davispolk.com

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