

EU and UK Memorandum of Understanding on financial services regulatory cooperation

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On 27 June 2023, the UK and EU signed a Memorandum of Understanding establishing a framework for financial services regulatory cooperation.

When the EU and UK agreed the Trade and Cooperation Agreement in December 2020 in connection with the UK's departure from the EU (Brexit), it was clear that a comprehensive framework setting out how the parties would cooperate in relation to financial services post-Brexit would have to wait until another day. In fact, only three paragraphs of the accompanying (and non-binding) Political Declaration were devoted to financial services. The EU and UK committed in the Political Declaration to carry out equivalence assessments with respect to each other as soon as possible following the UK's exit from the EU and they agreed to close and structured cooperation on regulatory and supervisory issues.

Although the former has yet to occur, technical negotiations on implementing the latter concluded in March 2021. The result was the Memorandum of Understanding on regulatory cooperation in financial services (the [MoU](#)). The MoU remained unsigned for over two years due at least in part to ongoing political tensions between the EU and UK over the Northern Ireland Protocol. Those tensions seem to have been largely resolved following the agreement reached earlier this year, known as the Windsor Framework, to amend the Northern Ireland Protocol.

The MoU is based on the shared objectives of preserving financial stability, market integrity and the protection of investors and consumers. It provides for:

- bilateral exchange of views and analysis relating to regulatory developments and other issues of common interest;
- transparency and appropriate dialogue relating to the process of adopting, suspending and withdrawing equivalence decisions;
- bilateral exchange of views and analysis relating to market developments and financial stability issues; and
- enhanced cooperation and coordination, including in international bodies.

The MoU also establishes the Joint EU-UK Financial Regulatory Forum (the Forum) to represent the views of the Commission and HM Treasury and to serve as a platform to facilitate structured cooperation and discussion on regulatory matters of mutual interest. The Forum will be held at least twice a year with the option to meet more frequently if necessary. In many respects, the Forum is modeled on the UK-US Financial Regulatory Working Group which was established in 2018 with the aim of deepening bilateral regulatory cooperation.

While the MoU is a welcome step in formalising discussion and cooperation between the EU and UK on financial services regulatory matters, it does not impose binding substantive commitments nor does it constrain either party from taking such regulatory action as it deems necessary or desirable in its respective jurisdiction. For example, there is no mention of taking forward the commitment in the Political Declaration regarding mutual equivalence. Nonetheless, the MoU is the first tangible sign of meaningful progress post-Brexit in relation to financial services regulation.

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.

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