**Time and tide wait for no man, and neither does Brexit.**

**Financial service firms cannot wait for the outcome of leave negotiations before putting restructuring plans into effect.**

After the initial excitement and panic following the referendum result, lawyers were quick to reassure their clients that nothing had changed overnight. The FCA similarly sought to reassure that it was business as usual; pointing out that regulation will remain applicable until any changes are made, and that will be a matter for Government and Parliament. Firms must continue to abide by their obligations under UK law, including those derived from EU law and continue with implementation plans for legislation that is still to come into effect.

It is likely that several months will elapse before Article 50 is invoked, triggering a two year window to negotiate an exit from the EU, at the end of which the UK will cease to be a member. Nevertheless, many financial services firms do not have the luxury of waiting for even the triggering of Article 50, let alone the outcome of negotiations to determine the UK's ultimate relationship with the EU.

The key issue for financial services firms in the UK is the continued availability of passporting rights to provide services throughout the EU. Alternatives to the passport include the possibility of the UK retaining some access to the single market through negotiation or being granted equivalence. However, even that may depend upon the kindness of strangers and it remains a real possibility that the UK will lose its rights of privileged access to the single market and revert to third country status.

Large financial services firms operate risk management frameworks. The risk of Brexit has now crystallised (to use risk jargon) and the risk of there being a sub-optimal outcome to EU exit negotiations is real (probably "High" – to use the same jargon).

The only means of effectively managing the worst-case risk is for firms to explore ways of restructuring so that they can continue to operate in a world where the UK is outside the single market and potentially not able to benefit from third country equivalence.

Each financial services sector is different. For example Brexit is unlikely to have a significant effect on the re-insurance industry — Lloyd’s has released a statement stating that only 4% of its global gross written premium is at risk with the UK outside the EU single market. However, the impact on banking and investment activities is likely to be more acute since there is greater reliance on passported rights.

Each firm is different. Some firms have corporate structures with a subsidiary presence in other European Economic Area ("**EEA**") countries and may already be in a position to simultaneously conduct EU business with minimal disruption. Other firms may need to set up completely new businesses in another EEA state and a smaller number of firms that passport into the UK will need to look at how they can access our market in the future. For most large groups the reality will be a mixture of solutions reflecting their diverse businesses.

Implementing such plans is resource intensive and cannot be undertaken overnight. Premises may need to be secured, competent staff hired and new authorisations obtained from overworked regulators. Contracts may need to be novated and new arrangements entered into with suppliers and counterparties. Data protection considerations may require re-locating customer data or entering into new agreements with customers.

For some firms even a two year lead time may be optimistic. Additionally, until firms have concrete plans in place to operate in the new EU, some of their counterparties may be reluctant to do long-term business, preferring the certainty of established continental firms or firms present in third countries that already benefit from equivalence.

The indications are that some firms need to plan and act now for both logistical and commercial reasons. Even if the UK Government is successful in maintaining access to the single market, for some firms it will be too late, they will already have been forced to act.

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