

## 6 Questions For Mayer Brown's Edmund Parker

By **Paige Long**

*Law360, London (June 29, 2017, 5:20 PM BST)* -- One year on from Britain's vote to leave the European Union, the impact of the U.K.'s disentanglement from its legal and regulatory ties to the EU still remains largely unknown. But as lawyers and their clients work toward the March 2019 deadline of Brexit, they should not forget the resiliency of English law and its importance in international and complex transactions, according to Ed Parker, global head of the derivatives and structured products practice at Mayer Brown LLP.



Edmund Parker

Parker acts for some of the world's largest financial institutions, hedge funds and corporations in derivatives and structured products matters, as well as on capital markets instructions. He joined Mayer Brown's London office in 2007, tasked with launching the firm's U.K. derivatives and structured products practice. He also wears two other "hats" at the firm: head of the banking and finance practice in London since 2014, and as of last year, he is now a member of Mayer Brown's partnership board.

Throughout his 20-year career, which has seen stints at Sidley Austin LLP, Clifford Chance LLP and French law firm Gide Loyrette Nouel, Parker has always specialized in derivatives, structured products and capital markets.

Here, he talks Law360 through the political trends that his clients are keeping a close eye on, his predictions for how the legal market will work through the uncertainty posed by the U.K.'s decision to leave the European Union, and the relationship between EU and U.S. regulators.

### **What are the most significant developments currently happening in your practice?**

I find the London market very fascinating at the moment, as it was under a lot of pressure last year. Between April and October the real estate market, the M&A markets, the IPO markets, and the global debt capital markets were all affected by the Brexit vote [which took place on June 23, 2016], and so there was a stagnation in the London legal market. Law firms that had a strong focus on the large real estate market would have struggled, in particular. But then the market picked up markedly in November and December, and the first half of 2017 has seen a return to business as usual.

Many commentators have said that Brexit will be a boon for lawyers, because of all the advice that will be needed, but I really don't think that advisory work will make up for the loss of large transactions, if London does suffer depressed deal volumes. And actually, there is still so much to plan for, so I query the amount of advice a small number of lawyers have already been providing. I think employment lawyers are the ones that should be doing extremely well, because working through all the cross-jurisdictional issues will be huge. Apart from that, it's difficult to say.

**Do you have any predictions for your market over the next couple of years as the Brexit negotiations heat up?**

People talk about the possibility of an exodus from London into European cities, but there is increasing confidence that this won't happen. The game can change quickly though, and unfavorable politics combined with momentum could change things.

What I hear from my clients is that all of this is a political matter, and so there must be a "wait and see" approach, because you don't know who the politicians will be or what directions the negotiations will take. We may have had election results in the U.K. and France, but there is a lack of certainty with the German election, for which direction it will take, and some instability with Theresa May's Conservatives party leading a minority government in the U.K. And Dublin is thought not to have the extent of infrastructure necessary for a financial center.

There may be a similar trend to what we saw in the 1990s and early 2000s, where lawyers were seconded to international offices to follow their clients to Europe. During that time, there were a high number of English-law-qualified solicitors from Magic Circle firms based across Europe. The euro was coming, and a lot of banks were saying that they were at least considering a move to Frankfurt, but it didn't end up happening. That trend pulled back well before the recession in 2008-09. It was expensive, and law firms realized they could service their clients just fine from here in London.

So will English law cease to be the law of choice for capital markets, for M&A transactions, for litigation disputes? I personally don't find that so likely. English law precedes the EU, it is a product of many centuries. In fact, I don't see English law suffering any decline, but instead continuing to grow as the favored law of international and/or complex transactions.

**Even with Brexit, there will be EU regulations that your clients will still need to comply with. What are the main ones taking up your agenda now?**

Yes, I would say that the European Markets Infrastructure Regulation, or EMIR, is huge for us; as is MiFID. The derivatives markets are global though, so we also need to keep up with the Dodd-Frank requirements coming from the U.S. It's been a huge process for all banks and most financial institutions.

The deadline for having all the variation margin documentation in for EMIR was March 1, and there was such a scramble to get it all into place. Margining for uncleared derivatives was initially announced in 2009, at the

G20 summit, and the leaders there said it had to be in place by the end of 2012 at the very latest. But then, things always get delayed. The regulators have now taken a pragmatic approach — they've told firms that if they weren't able to reach the deadline for getting their affairs in order, they can keep using a "best efforts" approach. The regulators are still watching, but so long as firms can prove they're doing all they can to meet the requirements, sanctioning is unlikely. However, patience is wearing thin, and the last negotiations must soon be completed.

**Can you talk me through some of the specific EMIR requirements that your clients are currently focusing on?**

EMIR regulation is very transactional based, and firms need to rely on a lot of documentation to be compliant. The March deadline was a very big issue, because a lot of affected derivatives users have not been able to negotiate all the documentation within the time limit, and so they're all still trying to work through that. It's been a major, major project. And of course, documentation is one thing, but then you also need to have the collateral mechanics and infrastructure behind that. Now we are moving on to another phase of margin compliance called "Phase II Initial Margin," necessitating another wave of banks to amend and create other sets of complex documentation and infrastructure.

We've had a busy few months putting all this into place, and there are thousands of contracts, so it's been a big job for the market. And that's happening on both sides of the Atlantic. And then there are further waves. MiFID II is set to come in next year. You hear a lot about that, as it's going to bring in a whole lot more regulation as well.

**As Mayer Brown's global head of derivatives, a big part of your role must be working through both EU and U.S. regulations. How do you handle that?**

A big thing for us at Mayer Brown has been growing the transatlantic operation of our derivatives practice. So for example in the past year the markets have experienced the implementation of global margin rules for uncleared swaps, and we've been able to say to major client financial institutions and firms: look, 90 percent of all of the world's derivatives are under either English law or New York law, and you may have English law/European nexus derivatives that relate to U.S. counterparties, or vice versa, and so we're working as a firm across our transatlantic offices to help you with this.

There are some great firms in London and great firms in New York, but there are not that many that can do great work in both. So we're trying to leverage our advantage here. At the same time, it's also about making sure that where we have a strong client in one jurisdiction, we can replicate the expertise for that client in another jurisdiction.

**What is the relationship between EU and U.S. regulators? And as the U.K. will soon be seen as a third country, are there any "lessons learned" from the U.S. experience with equivalence?**

You will always get pushback on equivalence, but all in all I think it's quite amazing what regulators have done in terms of trying to introduce similar regulations for the derivatives markets. Of course, it would have been much better if there were a set of global rules, much like Basel III, but the U.S. and EU approach to derivatives

have been broadly similar, the regulators seem to be talking to each other, and requirement deadlines are coming in at the same time.

In this way, there is every incentive for the U.K. to keep on track with EMIR, because it's very difficult to argue that there is no equivalence if you've got the same rules in place. I think it will be very interesting to watch how the equivalence piece plays out. Whereas now, until we actually leave, all of the EU rules apply.

--Editing by Ben Guilfooy and Sarah Golin.

*Editor's note: This interview has been edited and condensed.*

*This article is part of a series of Q&As with leaders in the field of financial services law.*

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