Brexit and Financial Markets: Same But Different?
(What We Do and Do Not Know)

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“The Irrelevance of Brexit for the European Financial Markets” (Ringe [2018]) – Really?

• The Agenda

  I. The full picture in a nutshell: What is at stake

  II. From European Passport to Equivalence? Market access for financial intermediaries post-Brexit

  III. An assessment and some conclusions
The full picture in a nutshell – What is at stake?

• Some figures, to start with
  – UK perspective: The relevance of the City of London
    • annual earnings of 190-205 bn GBP
    • around 1.1 mio employees
    • 60-67 bn GBP in taxes p.a.
    • banking sector: 108-117 GBP annual revenues
    • 40-50 bn GBP attributable annually to international and wholesale business to the EU – 55-65 bn GBP outside EU
    • top five US investment banks concentrate 90 % of European operations in London
    • 85 % of European hedge funds located in London
    • 35 % of all EU wholesale fin services concentrated in London
  
(source: Oliver Wyman [2016])

The full picture in a nutshell – What is at stake?

• Some figures, to start with
  – The Continental perspective
    • dependence on London, esp. with regard to wholesale financial services
    • UK presence mainly through branches rather than subsidiaries, e.g., Germany:
      – 17 branches of UK credit institutions
      – 76 branches of UK investment firms
The full picture in a nutshell – What is at stake?

- The legal and institutional basis (non-exhaustive)

**Banking**
- CRD IV / CRR
- Dep. Guarantee
- BRRD
- Cons / Mortgage credit
- Payment Services

**Securities markets, investment services, asset management**
- MIFID II / MiFIR
- CRAR
- Benchmarks
- UCITS / AIFM
- Issuer / Investor relationship
- MAR

**Insurance**
- Solvency II
- IDD
- Market Infrastructure
- EMIR
- CSDR

**EPP** = includes European Passport

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The full picture in a nutshell – What is at stake?

- Territoriality and the European Passport
  - The traditional approach: “territoriality”
    - autonomous (if harmonised) rule-making by Member States
    - autonomous licensing
    - supervisory powers for own territory
  - Full implementation of Single Market: the “European Passport” in financial services regulation
    - legal significance: Treaty Right of Establishment and Freedom to Provide Services
    - single license, issued by Home Member State
    - mutual recognition
    - limited supervisory competences for Host Member States
The full picture in a nutshell (cont’d)

- The institutional aspect

Macro supervision

European Systemic Risk Board

Warnings and recommendations

ECOFIN Council (Financial and Economics Ministers)

Micro supervision

European System of Financial Supervision

European Banking Authority

European Insurance and Occupational Pensions Authority

European Securities and Markets Authority

Standards, recommendations, in certain cases binding decisions vis-à-vis market participants

National supervisory agencies

From European Passport to Equivalence?
Market Access post-Brexit

- The state of the debate
  - Background: the loss of (5,000!) passports!
  - What is off the table? Alternatives dismissed so far
    - the “EEA model”: preserving passports, but with UK as “rules taker”
    - the “Ukraine model”: enhanced cooperation, but
      - commitment to full convergence with EU regulation
      - subject to full ECJ jurisdiction
      → ill-suited for secession state
    - the “WTO / GATS model”: whatever the prospects, no option for comprehensive market access
From European Passport to Equivalence?
Market Access post-Brexit

• In need of new subsidiaries?
  – new subsidiaries in EU-27 as key for on-going market access:
    • present relocations (to Amsterdam, Dublin, Frankfurt, Paris)…
    • … and associated costs in terms of logistics and additional funding needs
  – the EU-27 position:
    • effective transfer, effective control, no simple “back-to-back”
    • the Icelandic example

From European Passport to Equivalence?
Market Access post-Brexit

• “Equivalence” as the ultimate solution?
  – existing equivalence regimes:
    • recognition of Third Country intermediaries (and activities) … on the grounds of equally effective regulation and supervision in Home Country, granted by EU Commission
    • e.g., under MiFID II / MiFIR regime, for market infrastructures, and securities prospectuses – but not: for banks and insurers!
  – the “Chequers” White Paper: “new economic and regulatory arrangement”
    • enhanced equivalence regime
    • new procedure for further regulatory development
From European Passport to Equivalence?
Market Access post-Brexit

• “Equivalence” as the ultimate solution (cont’d)
  – the pros ...
    • present state of full equivalence will facilitate implementation during the early stages
    • both UK and EU to remain committed to full compliance with international standards (Basel Committee, FSB, IOSCO…), which should ensure convergence even in longer run

From European Passport to Equivalence?
Market Access post-Brexit

• “Equivalence” as the ultimate solution (cont’d)
  – … and (many) cons
    • the complexity of existing arrangements – is there a third way between “rule taking” (on the part of the UK) and “regulatory standstill”?
    • EU regulation has outgrown international standards – witness the role of the ESAs!
    • the relevance of supervisory interpretation
    • the need for ECJ supervision!

  – a fundamental question: would it be desirable?
What follows?
An assessment and some conclusions

Thank you for your attention!

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