

BREXIT

The City's Future in the Balance?



INTRODUCTION

A referendum on the UK's membership of the EU will take place within the next two years. Apart from a significant re-shaping of the political landscape, a Brexit is likely to have a substantial impact on the economy in general, and is likely to affect the financial services sector the most. This report considers the business implications of a Brexit in particular for the financial services sector.

Industry opinions of a Brexit

Addleshaw Goddard recently undertook a survey of opinion of its financial service clients as to how London's future as the EU financial services hub would fair after a Brexit.

The survey which was run in conjunction with an event; "[Brexit – The City's Future in the Balance?](#)" found that the majority of people (71%) thought the referendum should, be held in 2017 rather than in 2016 to give time to negotiate meaningful concessions and in order to avoid longer periods of uncertainty.

17% said they believed leaving the EU would be highly prejudicial to the financial services sector and that we should remain in at all costs. Yet 16%, believed that the sector would not be damaged and the UK would continue to flourish outside the EU.

Respondents believed that the areas of financial services most likely to be impacted by a full Brexit were;

- ▶ wholesale trading markets;
- ▶ capital markets and;
- ▶ bank finance

Naturally, the particular form that Brexit may take will determine how it affects UK financial services. As an alternative to EU membership, respondents to the Brexit survey broadly favoured a Norway-like status, with membership of the European Economic Area (EEA) allowing continued access to the EU market, but without any material influence over the relevant regulations.

While thoughts on the preferred outcome in the event of a Brexit were split, 64% of respondents favoured continued membership with the caveat that the UK needs concessions to protect it from an increasingly unfriendly drift in the EU regulation in the form of banker cap bonuses, transaction taxes etc.

Of course what our relationship with the EU would look like after a Brexit is uncharted territory and it may be that we would be able to negotiate an arrangement which doesn't look like any existing model.

BREXIT –THE CITY'S FUTURE IN THE BALANCE

In July, Addleshaw Goddard hosted a panel discussion to consider the potential implications of a Brexit. An expert panel including Daithi O' Ceallaigh, Former Irish Ambassador to Great Britain, Matthew Sinclair, a senior consultant at Europe Economics, Rt Hon John Redwood MP, Dr Thomas Sampson, Assistant Professor in Economics, London School of Economics and Peter Wilding, Chief Executive, British Influence, shed light on the topic, in particular:

- ▶ the real costs of leaving
- ▶ the alternatives to EU membership
- ▶ what the UK should be seeking to negotiate ahead of the referendum; and
- ▶ how to deal with the challenges of staying in a union which may, in any event, become increasingly unfriendly to the City

Mathew Sinclair believed the UK's past experience with the EU was growing increasingly unrepresentative of what it was currently experiencing. With Eurozone priorities differing to those of the UK, for example when considering economic growth versus stability, he believed opposing concepts of regulation were increasingly hampering the UK's potential.

"I think it's not really a case of will the UK leave the EU, the EU has left the UK and it would be best to recognise that and try to take advantage," he said.

The UK regularly had to launch legal challenges on policy initiatives regarding the financial services industry, he said, adding: "It should be unthinkable that we've got multiple legal cases in an industry in which we are the largest player and which is of crucial national importance to the UK."

"It's not really a case of will the UK leave the EU, the EU has left the UK."

MATTHEW SINCLAIR, SENIOR CONSULTANT,
EUROPE ECONOMICS

However, Peter Wilding, chief executive of British Influence, disagreed, saying the image of the UK's presence in the EU had become distorted as ministers did not keep Parliament well informed. The notion that the UK was permanently on its back foot and outvoted in Europe was ridiculous, he said, adding: "In most aspects of what we seek to achieve in the European Union, we are successful."

British Influence's annual Scorecard, assesses how successful the government has been in its stated policy objectives with the EU. Its latest report outlines that the UK was successful in up to 90% of the policy areas it wished to succeed in, though he said Britain was "useless at playing the game in Brussels".

He added: "We should be influencing the early stages of the development of potential legislation. We don't do that and the problem is not necessarily with the British diplomatic representation in Brussels, it's with Westminster."

Voicing his opposition to a Brexit, he said voters must choose a Great Britain that was a leader in Europe in order to be a leader in the world, fearing the implications on the status of Scotland and Wales in Britain if the country left the EU.

Similar concerns were raised by Dáithí O'Ceallaigh, former Irish Ambassador to the UK and one of the authors of the Institute for European and International Affairs' book [Britain and Europe: The Endgame](#).

He welcomed a referendum for the certainty it would provide and said he supported remaining in the EU, not least because a Brexit would raise serious questions about the future for Northern Ireland following years of close working between London and Dublin.

"What worries me is that, were Britain to leave that the two countries would move apart and that might have implications for Northern Ireland, which would cause problems down the road for both the Republic and for the United Kingdom," he added.

Trade: A rise or fall?

With around half of total UK trade carried out with EU countries, Dr Thomas Sampson, assistant professor of economics at the LSE, said the impact on consumers through the reduction in prices, as well as the new export opportunities afforded to UK businesses, should not be overlooked.

Looking at a range of scenarios in the event of a Brexit, the LSE predicted a 3% drop in national income if the UK was less integrated with EU markets, compared with a 1% fall in the most optimistic scenario.

"We would gain influence because the UK would have a place at the world table instead of having to go 'cap in hand' to Brussels."

RT HON JOHN REDWOOD MP

While he conceded there was a lot of uncertainty around the figures, he said the "best economic message" coming out of the analysis was that there would be a cost to the UK economy of leaving the EU.

Peter Wilding agreed, stating that the UK's biggest market was the EU, with more goods sold to Ireland than Russia, China and Brazil combined.

"You know we need to be in it to win it, otherwise it could just go in an adverse direction and that would have very adverse consequences for UK jobs," he added.

By contrast, Rt Hon John Redwood MP refuted the claims that trade would be at risk, stating that it would be in the best interests of EU countries to retain favourable arrangements for trade as they exported twice as much to the UK as was exported to them.

"My assessment is that, at least economically, it would make sense for Britain to stay in the EU."

DR THOMAS SAMPSON, ASSISTANT PROFESSOR OF ECONOMICS,
LONDON SCHOOL OF ECONOMICS

The German government, he said, had made a clear statement that if the UK were to leave, they would want a free trade agreement put in place immediately.

He hailed the potentially positive impact a Brexit would have on trade, not least the freedom the UK would be afforded to set its own rules and regulations for all its domestic trade and all trade with countries outside the EU.

He said: "We would gain influence because the UK would then have a place at the world table instead of having to go 'cap in hand' to Brussels to try and influence the position the EU takes on world trade or all the other big issues that come up for global decision."

It would also mean the chance to develop free trade agreements with China, India and America, he said, while the current situation in Greece should serve as a warning sign.

The UK needs assurances

While there was a unanimous 'no' response in Addleshaw Goddard's Brexit survey when asked whether Britain should join the Euro, businesses still fear that the Eurozone Group could implement taxation practices and other laws that would disadvantage the UK in the event of a Brexit and businesses need reassurance.

John Peet, European editor of The Economist, said: "Do you actually see the case that some people then make of saying 'look if we're not in the Eurozone we might as well get out of the entire club'?"

O'Ceallaigh agreed the UK needed assurances on this and is one of the issues raised by the Prime Minister, because of the importance of the City of London. Convinced a deal was available in this area, he added: "I'm in no doubt that there is a willingness on the part of those within the Euro group to find arrangements for the relationship between those who are in and out, which are satisfactory to both. But it won't be easy."

It was agreed that outside the EU, EU countries would find it easier to impose discriminatory taxation practices on UK companies, while withdrawal from the customs union would affect the VAT position of cross-border supplies and this could lead to the imposition of the Common Customs Tariff on goods exported from the UK.



What lies ahead?

Though the future remains uncertain there is much speculation as to what lies ahead. In the event of the referendum resulting in a Brexit, Matthew Sinclair suggested the government should take serious action to reassure businesses that it was worth them remaining located in Europe, at the same time as trying to establish new trade deals with other places besides the EU.

He said: "If you take a number of actions like that, you can add to the many strengths that London has besides being inside the European Union, to minimise the risk of businesses leaving the UK."

Rt Hon John Redwood believed there were two futures for the EU as it was evolving: one future in which the 'Euroland' merger works and the second, that the situation in Greece was a premonition for economic and social disaster for the emerging currency union, without the political union needed to sustain it.

"We have to choose a Great Britain that is a leader in Europe in order to be a leader in the world."

PETER WILDING, CHIEF EXECUTIVE, BRITISH INFLUENCE

After a Brexit, the UK would have to reach agreements within 27 countries who, after the controversy of the Brexit itself, might not be particularly well disposed to giving you a good deal."

DÁITHÍ O'CEALLAIGH, FORMER IRISH AMBASSADOR TO THE UK

"I hope it's the former scenario, but you must be realistic and I'm very glad we have a Prime Minister honest enough to try and negotiate a new relationship," he said.

Though he conceded the UK had lost its influence in recent years, O'Ceallaigh believed a deal was available to lead Britain back to the heart of Europe, with a strong voice to influence the shape and direction of future policy and strategy.

"Hopefully British influence in Europe will increase to what it used to be, when the UK was a very positive influence indeed," said O'Ceallaigh.

HOW COULD BREXIT AFFECT YOUR BUSINESS?

Whether the UK departs from the EU and strikes up an alternative arrangement, or whether it remains as it is, the future landscape is unclear. What is clear is that there will be a number of potential legal challenges that businesses may need to address. Areas that could have a significant impact on businesses include:

- ▶ Potential loss of passporting rights into the EU for UK based financial services firms
- ▶ Potential changes to the tax regime. Withdrawal from the Customs Union would affect the VAT position of cross-border supplies and could lead to the imposition of the Common Customs Tariff on goods exported from the UK, while UK withholding tax at 20% may apply to interest/royalties paid by UK companies to associated companies based elsewhere in the EU.
- ▶ Restrictions on migration, which may impact an organisation's ability to move staff between its businesses.
- ▶ The UK would no longer be an automatically 'safe' destination for EU personal data. The implications on data transfers in the EU in the event of a Brexit may affect a business's online operation.
- ▶ EU contracts would likely be interpreted on a case-by-case basis, taking into account the specific language. Some EU contracts may expressly state that the territory is the EU as fixed at the time of signature only, whereas others may define the territory more fluidly.
- ▶ All "directly applicable" EU regulation would ultimately fall away on a Brexit and would have to be passed as new UK law.

Addleshaw Goddard is a premium business law firm and one of the first to establish a team of lawyers to anticipate and analyse the diverse legal issues that may arise in the event of a Brexit.

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