THE IMPACT OF BREXIT ON CAPITAL MARKETS REGULATION

BY KEITH MULLIN

A couple of weeks after the results of the UK vote on EU membership, IFR convened an editorial thought-leadership session – aka an IFR Conclave – that brought together an expert panel of banking, capital markets and regulatory lawyers and consultants to get an early gauge of reactions and discuss possible ways forward on capital markets regulation.

In a short interactive session, we discussed the key themes and their challenges, pitfalls and opportunities. Even though the future of UK capital markets regulation in a post-Brexit scenario remains highly uncertain and comments at this early stage can by definition be little more than speculative – the topic will continue to evolve over the next two years at least – we nonetheless had a lively discussion. Thanks to all of our speakers for participating.

Below is an edited and themed distillation of our hour-long discussion. It's not intended to be read as a verbatim conversation transcript but more as a stand-alone vox pop-style collection of considered thoughts. A lot may have happened in the intervening period – note the discussion took place before the appointment of Teresa May as UK prime minister – but the basis of the discussion remains very much du jour.

PARTICIPANTS

Christopher Leonard, partner, EU Financial Regulatory Group, Akin Gump
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ON EQUIVALENCE, PASSPORTING & GRANDFATHERING

Christopher Leonard, Akin Gump:
Equivalence is ultimately a political determination in the hands of the European Commission. We can do our flow charts and our comparative diagrams and say: "well, the regulations are the same" but that's not what is ultimately going to drive the decision.

It's also important not to think of the financial services industry as a whole. Much of the discourse to-date has been around passporting but not everyone uses every aspect of passporting and not every silo of the financial services industry uses passporting in the same way. There will be different drivers within the industry and different interests being advocated.

Over the last four or five years, people have increasingly used cross-border passporting rather than establish branches. They've exercised those passports because it's easy and they can. It's question of when you're going through your application

process why not tick those boxes, but without necessarily having put a huge amount of thought as to whether you're actually providing services into a given jurisdiction and whether or to the extent you feel you're doing business in France of Spain or whatever it might be in a way that requires authorisation in that jurisdiction. Maybe the answers are: "actually, we don't need that passport; we don't need to be authorised in, say, Spain or Portugal".

On the issue of equivalence and the way it works within different regimes – banking, MiFID, insurance – the fundamental point is that at the point of departure, whenever and however that might be, UK law won't just be equivalent to the EU, it will be exactly the same.

We may have stepped onto a path where we begin to diverge and there may be good political reasons why we choose to do that. But at the point of departure the law will be exactly the same. So the question for politicians on both sides of the debate and for industry participants will be: do you want to maintain that equivalence? Do you want to recognise that equivalence? And if you choose to maintain equivalence, what mechanism do you use to try and keep the UK and the rest of Europe marching in parallel in our different futures?

In terms of how you might bring regulations into effect on the day of Brexit, it would presumably be a relatively simple statute that says as of the day of Brexit these regulations will apply until there's something specific [to replace them].

The slight tension between the London model and the London regulators and what the rest of Europe has previously been straining at the leash to do and has been restrained from doing by the presence of the UK in the European Union is valid and really important. Now that restraint has been taken away, it is absolutely a question of whether the direction of travel in Europe becomes so unattractive to London businesses that they don't want to keep on marching in step.

Achieving equivalence is notoriously difficult. I'm not aware of any aspect of US and EU financial regulation that has, in fact, deemed to be equivalent, because [those negotiations have] been [largely conducted as] a trade issue. Notwithstanding that the policy objectives at the G20 that are all agreed and established and determined to be the right things to do; notwithstanding that everyone has implemented those G20 objectives in their own way, those equivalence determinations haven't formally been achieved.

Thomas Huertas, EY:
We need to put this theme into a broader framework because that will ultimately drive what happens to capital markets regulation. Leaving the 'why' aside, the UK is going to leave the EU. The actual departure is at least two years off. How it will happen is the big question. The UK at some point will file an application under Article 50 [of the Lisbon Treaty]. The real question is what the arrangement is going to look like after the UK leaves.

There are three models that people talk about. One is Norway, where the rights and obligations of the EU are maintained, the UK has the same rights and obligations in the EU including passporting but has no vote and, importantly, has to pay the money.

Norway is very much the world as we know it, an ability to continue the current practice. But with that situation comes the free movement of people, which is the issue that was of most concern in the campaign. The second is the Canada model, which will be a free trade agreement between the UK and the EU, and third is Albania: a third country under the rules of the WTO. Each has very different implications for capital markets regulation and for capital markets in the UK.

Another question is who is on the other side of the negotiations. The EU27 will potentially change over the coming two years. There are elections in France and Germany and there's an important constitutional referendum in Italy. Who is on the other side of the table is an important factor in this development as well. So an awful lot of questions but the model that we wind up with is going to be determinative of the way capital markets are allowed to function in the UK and will give a strong indication of capital markets regulation.

Finally, let's assume that if the law is exactly the same and there is, therefore, equivalence. Is that recognised by third countries such as the United States? Does that automatically carry over? And if it's only equivalence within the EU, would the UK have to go through a separate equivalence test in third countries?

Michael Lewis, Pinsent Masons:
It is a political decision. I had always thought that the third-country regime was based on third countries that had a different philosophy but had achieved broadly similar outcomes.

CHRISTOPHER LEONARD

KATE SUMPTER

CAROLINE DAWSON

ROSALI PRETORIUS

Kate Sumpter, Allen & Overy:
[On the basis that EU Directives are transposed into UK law while EU Regulations may cease to have any legal standing when the UK leaves the EU], there is a real possibility of a [regulatory] lacuna. We have to have some degree of faith in the parliamentary process that they will pick up on the fact that we can't simply eradicate the European Communities Act of 1972 and all of its effects, and that we do need to address the possibility of a lacuna in respect of directly applicable regulation. Precisely how they will do that is open to speculation. But it does go to the very heart of the point about the law being exactly the same.

That is absolutely a sensible assumption but it is just that: an assumption. We do have some very substantial tasks ahead of us. To name but two: the recast Directive on Payment Services and MiFID II are both due for implementation over the course of the next 18 months. There is a risk that the UK authorities decide they're not going to go down that route and they're not going to implement those pieces of European legislation. At that point we will have divergence on day one.

Imogen Garner, Norton Rose Fulbright:
There have, of course, been some areas where we have seen differences between the stance the UK has been taking versus the stance that's been taken by the European institutions: look at things like the bonus cap.

At the moment, some of the noises we're hearing, certainly on MiFID II, are very much: expect to have to comply with business-as-usual and carry on implementing. We'll see where that goes but at the moment the message seems to be assume that you will need to comply with anything that comes into force during the period of the negotiation because we will still be a member of the European Union during that time.

There is an international framework of regulation but one thing we also have to bear in mind is that the UK regulators have had a number of significant policy priorities for a number of years and that is now being reflected in European regulatory developments.

In many ways the UK regulators have been at the forefront of driving those things. So take, for instance, in the asset management sphere, the rules that we see coming in MiFID II in relation to the purchase of research using dealing commission. That's something that's been a real concern for UK regulators for a decade. It's now in MiFID II. But even if we didn't implement MiFID II, that would still remain a domestic concern.

On passporting, there have been a lot of issues around where exactly services are deemed to be being provided, or activities are being deemed to be carried out but because those passports have been there, there hasn't necessarily been the drive to dig to the bottom of the issues. Maybe some of this will come to the fore now because those questions are more relevant.

Rosali Pretorius, Dentons:
Following the financial crisis we're part of a system of global regulation and there is recognition in the UK that whatever we have has to be at least along the lines of what we've agreed under G20 commitments. On things like the bonus cap, there may be differences. The question is going to be whether those differences will railroad an application for equivalence.

On equivalence, there's nothing that says it will be automatic but there's also nothing in there which says that, for example, the European Banking Authority couldn't start looking at equivalence ahead of an actual Brexit.

The point about whether businesses actually need the passport is a valid one. I would think everybody around the table has done numerous multi-jurisdiction surveys involving countries outside the EU where you do have to ask questions about what it means to provide services in that country. Is it enough that you just contact somebody in that country? If you contact that person and make a flying visit, is that enough? Or do you need to have some form of presence? These sorts of questions become part of the analysis and it can be quite complicated from the conflicts of laws perspective so I agree that's going to be part of the analysis.

There are institutions that have enormous operations in London and those operations are set up to provide services across Europe. For them to move those operations and to analyse whether they need to provide, let's say, a form of broking or insurance into a particular European country will take more than two years. Article 50 notification is such a crucial thing. Two years is too short.

THOMAS HUERTAS

ANDREW DAVIDSON

IMOGEN GARNER

MICHAEL LEWIS

MiFID, in particular, has become subject to a lot of attention in this debate because one of the very controversial aspects of the negotiation in MiFID II was around third-country access and issues around having to set up a branch in order to provide certain services. Where we've ended up is with a bifurcated regime so you can choose to force firms to have a branch to provide services to retail clients. The UK and Germany are not exercising that option but many other countries are. Then there's the issue around registration with ESMA under MiFIR.

MiFID has also attracted a lot of attention because it's quite detailed. If you compare the passporting provisions in. for example, the CRR with the passporting provisions in MiFID, the latter are much fuller around equivalence and how it works whereas CRR says you an allow a branch to come in, you can allow third-country supervisors to participate in colleges under certain conditions but it doesn't tell you much more. And MiFID deals with a lot of the financial services landscape.

Caroline Dawson, Clifford Chance:
There's also the other side of the coin, which is if the UK is retaining its EU form legislation, we're going to inherit a lot of provisions which say you're only allowed to do incoming business into the UK if you're equivalent, or UK participants are only allowed to participate in EU markets if they're equivalent. We've got a decision to make about what we do about those.

Do we grandfather things like, for example, the Central Counterparty equivalence decisions for the US? Then you've got the question of all the agreements between the EU and the US around access of EU CCPs to the US markets and the terms on which they access those markets. We're not automatically going to inherit that and that's something we're going to have to negotiate.

The issue, more broadly, of grandfathering and its implications, is a massive question and it really depends on what exactly is being grandfathered. If we look at just a narrow situation where we're talking about inheriting all European regulation which would otherwise have been directly applicable, it's going to be a matter of looking at the role of the European Supervisory Authorities – and the ECB for that matter – in UK markets for a transitional period.

What role is ESMA going to have for things like the short-selling regulation where it currently has the power temporarily to ban short-selling in certain instruments? Would UK authorities say: "OK that's great; that's part of our legislation now, maybe just for this transitional period, maybe for a longer period but because ESMA has banned that, we're going to ban it in UK markets as well".

Beyond the role of the European institutions, there's the issue of all of the cross references that we've got in the existing legislation (like FISMA, the Directorate-General for Financial Stability, Financial Services and Capital Markets Union) and the cross references that we've got to European legislation and European institutions.

Andrew Davidson, KPMG:
There has been a lot of convergence internationally in regulation in recent years and I don't think we're going to see an end to that. There may still be a national overlay but the general sense of direction is towards convergence. And much of the recent regulation has come through the Financial Stability Board, through Basel's global standards, through IOSCO. I don't think there's going to be a bonfire of regulation any time soon.

ON THE UK'S INFLUENCE

Thomas Huertas, EY:
The UK influence in world forums has to some extent been based on its ability to speak with and, to some extent, for the European Union as a whole in that it helped form a consensus within the EU. Therefore the voice that the UK had in international forums was not just the UK but more broadly on behalf of the EU.

There certainly are people in the EU27 ready, willing and able to speak on these issues and they have definite views. That they would be content to have the UK have the same type of voice is, in my personal opinion, doubtful. And the UK's ranking within the G20 or the G7 as stand-alone rather than part of the EU must be different than what it is today.

Kate Sumpter, Allen & Overy:
We shouldn't lose sight of the fact that the UK, London in particular, is and will remain for the foreseeable future one of the major financial centres in the world. For that reason, we will always command a place in the discussions at the G20 and the Financial Stability Board [albeit] that doesn't necessarily suggest our sphere of influence hasn't shrunk.

For me the loss, more particularly, of our ability to have a voice in the European legislative process is something I find quite concerning. Even if we take the view that the European regulation won't bite directly on London-based institutions, our institutions are stakeholders in the European-based regulated entities.

We're expecting later this year, for example, a legislative proposal on Central Counterparty resolution. We're not going to have a voice in the remainder of that process and yet London-based banks and other institutions are substantial participants in European CCPs and will continue to be. So I think not having a voice in that process is a real loss for the City.

On the point about different models, we also need to keep in mind the financial institutions in London have very diverse client bases. Some of the institutions I'm talking to have a very London-centric client base, in which case Brexit should theoretically have limited impact.

What they need to be doing over the next period of time is keep close to their clients and understand how their clients might be reacting to Brexit, in which case their own client base shifting may well impact on their business of their future. We also have an enormous number of subsidiaries of global outfits in London. For them, it's a question of thinking about whether they're in London because of access to the European market, in which case does London remain the right centre to be located in?

My personal take is it's far too soon to be making any decisions. This is the right time for people to be getting their houses in order, to be understanding their business and their opportunities for future growth and to be understanding what the options around regulatory frameworks might be but it's very much a message of do not rush for the exit.

Caroline Dawson, Clifford Chance:
We can't cut ourselves off from the rest of Europe. London banks service clients across the whole of the European Union. Those clients are still subject to European legislation and you've got things like, for example, reporting obligations under EMIR, under MiFID II, where clients might look to banks or investment firms to provide those services for them. If you're outside of the EU and you're not plugged into the EU infrastructure, you don't have a voice in how those reporting arrangements are organised.

Rosali Pretorius, Dentons:
[Don't forget] there was a big court battle in 2015 [regarding the Eurosystem Oversight Policy Framework's location policy in respect of CCPs] and the UK won that case in the European Court of Justice. The question is whether that privileged position will continue. The French among others are very keen for euro clearing to go to the Continent. An important point also to bear in mind in the context of the UK's voice is that I think the UK's voice will be diminished even if we end up with the Norwegian option.

I act for Norwegian clients and it's not simple. First of all, there is the issue around participation. But then there's also the issue around the status of ESA guidance, which doesn't apply. So you're in a slightly different regime and you can't influence things in the same way you can at the moment. One thing I'm still quite hopeful of is that there might be a new model that will give us more of what we have at the moment. But it's not clear there's political will to push for such a thing.

Christopher Leonard, Akin Gump:
I also hope there will be some other model. Leaving aside the issue of free movement, the EEA model is completely unacceptable. On sovereignty, you're saying we'll just accept all the rules without having any say and we'll make a financial contribution. Could the new model be a beacon of common law and good regulation which enables us to attract business?

I've found myself reading [pro-Brexit MEP] Daniel Hannan's books now with a lot more interest and I'm trying to accept and understand his arguments in the hope that he's right. I can imagine a world in which we pivot away from Europe and we become something like a damp and cold Cayman Islands; hopefully not quite so lax but providing a well regulated-free trade environment that attracts financial services business from across the globe.

For all of the importance of Europe to the financial services industry, in particular the sort of legislative framework we've been operating in, it's important to remember that the real drive to the single market and financial services is only 10 years old. There was a world before that and there will be a world after it. Whether it's as good or not or better I don't know.

When you look at things like MiFID and the decision making process, nobody can deny that it was not fast: it is cumbersome, bureaucratic and for better or for worse, it is a slow process. So adopting the Brexiteer mindset as best as I'm able to, the advantage of not being part of that is we will be able to be more nimble.

If you look at clearing, one of the things I was thinking about before all of this happened was what is happening in fintech. Is clearing really going to work in the same way in five years as it does today? If it doesn't, MiFID II is completely broken. If clearing moves to a blockchain-type environment, MiFID II will be completely bypassed. We, in theory at least, would be in a position where we could react far more quickly to that and perhaps even a greater environment that supports and encourages it but it is very much the wishful-thinking, the optimistic-thinking model, which I'm struggling to get myself into.

Andrew Davidson, KPMG:
We've talked a lot about passporting. It is a very topical issue and there are definitely a lot of legal issues associated with it but I think it's also helpful to stand back from the legal side of things and think with a dose of pragmatism and practicality around this. There's also a coverage model that goes with this. So it's all very well to be able to passport services into, say, Germany and sell a swap there.

But if you're not able to turn up on a plane and go and see your client and service your client so easily, the coverage model starts to break down, so it's helpful for institutions to understand their current coverage models when analysing these issues and think from a business perspective too.

ON BAIL-IN AND RECOGNITION

Kate Sumpter, Allen & Overy:
There's been a lot of focus on equivalence but we also have the recognition regimes, which are absolutely critical when it comes to prudential areas of regulation like bank recovery, resolution and capital requirements. We've talked about the activities provided by financial institutions but we haven't talked about investment into those financial institutions. The issue of recognition is absolutely key.

If we go to the building blocks of the Bank Recovery and Resolution Directive, what it relies on across Europe are the provisions of the credit institutions' winding-up directive and the mandatory mutual recognition of insolvency and resolution actions in respect of banks and now also certain investment firms.

The key question is: will that mandatory recognition be carried forward in some way? What we don't have in the UK is any form of compulsory recognition of another jurisdiction's insolvency or resolution laws. Full stop. Other than the BRRD. So if we move out of the EU there's going to be a very political question mark over whether we put in place some form of mandatory recognition of European resolution and insolvency laws.

There is a lot of argument to say that for the sake of investor certainty we should do that. There are certainly commitments at the FSB level for political agreement of recognition cross border (we're yet to see that come in to fruition) but I think too it's tainted by the experience we've seen in some of the other jurisdictions.

Cyprus is a good example where there were very substantial legal questions as to whether the resolution actions that were taken should have been recognised in the UK or not. Until we start to get some certainty around public-policy type questions around treatment of creditors and the like we're going to have that question mark over mutual recognition.

Thomas Huertas, EY:
The fundamental approach on resolution where the UK has had a thought-leadership role, in my opinion, will not change. The structure, the ring-fence bank is likely to be preserved. I don't see that being changed. The emphasis on bail-in, the emphasis on putting investors at risk and not the taxpayer, I think will remain.

Andrew Davidson, KPMG:
If we think of the BRRD, many of those provisions were already part of a UK regime with the exception of bail-in, which was introduced with the BRRD. But it was certainly a matter of principle that the UK was in favour on. So recovery and resolution as a concept I think is here to stay and is already enshrined in UK law and in regulation regardless of the legal recognition rights, which are also a global issue of recognition which the FSB acknowledges and is trying to harmonise across the various regimes.

UK AND UK LAW

Rosali Pretorius, Dentons:
Until we've repealed the European Communities Act 1972, the position is as it is at the moment, which is that EU law is supreme. If we exit it's going to be quite complicated, because the issue is then around whether we look at decisions of the ECJ interpreting provisions, which we've all said we expect to be similar, if not exactly the same. So does that then become good guidance? I don't think it will be a binding unless we're in a model whereby we recognise the ECJ as a binding jurisdiction. I don't think that's on the table in a full Brexit.

Kate Sumpter, Allen & Overy:
The primacy of English law as a marketable commodity will not change, certainly not in our lifetimes. English law is fantastic. We have a legal system which is well understood and particularly in the financial markets and I can't see that changing. [If the EU27 institute a provision that euro-denominated issues should be under the law of an EU member state], we are going to see differences.

But one of the things to remember here is that we use English law in documents for issuance all around the world, much in the same way New York law is used. If that were to happen there would be a diminution in the use of English law across the Continent but that's not to say that it's necessarily going to damage the brand of English law as a commodity.

Caroline Dawson, Clifford Chance:
The EU27 could pass some kind of legislation but how they would enforce that? English and New York law have been used globally for capital markets issuance. We've seen restrictive capital market practices in all sorts of jurisdictions but people find ways of structuring around it.

Christopher Leonard, Akin Gump:
If the EU did that, it would be an aggressive move and we would clearly be in an unfriendly situation, which is not what anyone would wish or hope for. But it's also a double-edged sword for the remainder of the EU because they could find that by doing that they would push a lot of capital market issuance into the UK or to New York or Singapore.

There is no particular reason why European companies have to raise capital in Europe. I don't know how much weight of argument there is on each side of the discussion but it is still a two-way discussion.

Thomas Huertas, EY:
The principal players in the market are intensely practical. They may not be thinking of moving vast amounts but the marginal decisions about where to invest are going to be determined by how they see the UK market developing relative to others. The growth is prospectively in emerging markets, prospectively in Asia. This market relative to other markets will determine where the marginal investment is going to be made. And looking 10, 15 years down the road it could be a very different picture.

ON CAPITAL MARKETS UNION

Andrew Davidson, KPMG:
Capital Markets Union is an interesting concept. There's real demand, there's a supply of investors but a lot of the intellectual capital required to make it happen is sitting in London. The success of Capital Markets Union is not only important to the UK but to European countries and it will be a real shame if there couldn't be a pragmatic approach to dealing with this that unleashes that potential.

It's not like 40 years ago when we joined the EU when there were very much isolated economies sitting side by side. We're very interconnected now and not only in financial services: take the intellectual property that swims around other industries like aeroplane manufacturing. You've got parts in the UK, Germany and France but when it comes together it allows us to create a champion that can rival other global champions in that field.

Michael Lewis, Pinsent Masons:
CMU was driven by Jonathan Hill but the latest comments are that the European Union still wants to press ahead with it.

Imogen Garner, Norton Rose Fulbright:
This is a very similar theme to many of the others we've talked about. There are downsides to the UK being outside. It's a shame the UK doesn't have the same voice as we perhaps had in relation to it with Lord Hill but Valdis Dombrovskis, his replacement has talked about pressing on and about the added importance of progressing Capital Markets Union now that London, being one of the major world financial centres and the major financial centre in Europe, isn't going to be part of the European Union. So that's intensified the desire to get going and focus on Capital Markets Union within the remaining EU.

Kate Sumpter, Allen & Overy:
It is important to keep in mind some of the restrictions or limitations as to what the Capital Markets Union project is, frankly, capable of achieving. One of the things that came out through one of the very early European Commission Green Papers on Capital Markets Union was the fact that the European capital markets are not as broad and deep as they are in the United States, for example. We have the barriers of multiple languages and significant cultural differences.

You look at the Italian banks, for example, what we're seeing in the press at the moment about how Italy will go about rescuing those banks is driven by the fact that the investment in those banks, the equity instruments, are held largely by retail investors. Now that's an odd situation compared to other parts of Europe. So harmonising some of those very substantial cultural differences is probably one of the biggest barriers to Capital Markets Union working. And that's not going to change whether the UK is inside or out of it.

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ON LONDON AS A FINANCIAL CENTRE

Christopher Leonard, Akin Gump:
The nominal GDP of London would make it roughly the sixth largest economy in the EU. So will London's position and status change? Yes, of course it will. And how it will change is impossible to predict. But there is an impetus and a momentum to London that takes a lot of diverting. We've got to make the most of it and make the best of the opportunities as well as the threats that Brexit presents. London has always been good at doing that.

Kate Sumpter, Allen & Overy:
There are probably two limbs I'd draw out. One is cultural and the fact that London is a very attractive place for people to be for people and business. Historically, London has always been an attractive place to be. It will remain a diverse place.

The second thing is the City of London's willingness to adapt, which is something it's done through the course of history. I sat in this morning on a City of London corporation discussion around innovation in the fintech sector and there is a huge will and appetite to encourage that in London. While we're working our way through these very murky waters with those sorts of attitudes, we'll come out at the other end in a reasonably strong place.

Caroline Dawson, Clifford Chance:
There's a critical mass element to it. People are looking at different places where they could possibly go around the EU, to Dublin, Frankfurt, Milan, Paris, maybe, Netherlands or Luxembourg. But unless you've got everyone going to one single place, you're not really seeing a significant competition to the City of London. And while that's still the case, the City of London still does have some cohesion and it has that critical mass, which retains its character.

Thomas Huertas, EY:
Let's not forget the rise of London as the global financial centre was started by something as simple as the Interest Equalisation Tax revision in the United States [in 1963]. I would say that Brexit is of somewhat greater significance than a change in the US Interest Equalisation Tax. The technology is also something that makes it possible to conduct financial services in a manner that is not as reliant on a financial centre as formerly. So I would draw perhaps a comparison to Wimbledon: a veteran down two sets to love; maybe that's the situation the City of London is facing. Let's see how the City does.

Rosali Pretorius, Dentons:
London will remain an important centre but there's the possibility that we might see other centres becoming at least as, if not more important. I see a lot of business going to Singapore. I think that will remain the case. I'm not sure that with our bad start now with Brexit that we'll effectively remain larger than New York because it's been head-to-head for quite a long time. So I think London will remain important, but whether it will remain the most important, I doubt.

Michael Lewis, Pinsent Masons:
I think London will remain strong but I think it could lose a bit of its shine, but particularly with particular areas migrating I don't think holds together. Some business perhaps migrating to Amsterdam or to Dublin or to Frankfurt and then the longer term who knows, it will depend on actually the deals that are agreed.

Imogen Garner, Norton Rose Fulbright:
London will remain strong. There's a lot of thought going into the possible benefits and disadvantages of alternative locations. It won't just be in the EU that people are thinking about it. They'll think about locations outside. But even in the EU when you think about the benefits of being inside the European Union, if you look at moving to Paris or Frankfurt, there are issues quite separate from those that pertain to financial services regulation that make those locations more or less attractive. It's not an easy task. So I think London still is going to have a lot to offer.

Andrew Davidson, KPMG:
The reasons why there is some stickiness around London include the expertise that sits here especially around manufacturing product and English law, among others. Another is the infrastructure that exists, including the markets infrastructure (payments, settlement, clearing) which has certainly stood up well under volatility in recent times. And then there's that human dimension behind everything, which is just where do people want to live and base their families? These are all things, which have to be taken into account. And just as firms have to look at, perhaps optionality for the future, London too creates optionality for it.

The environment will always change. The markets in which we operate will continue to change, and that presents some unknowns for the future. There are certainly any number of unknowns out there. I don't think answers will necessarily be forthcoming in the short term to some of those unknowns. We're in a market volatility phase right now where there is some fear but at the same time there's some looking at the opportunities that this presents.

We'll then move into a period of negotiation. In the history of these [sorts of] negotiations in Europe and elsewhere, people keep their cards very close to their chest until the last minute. So that means many of the unknowns may not become known until we get much further towards the deadline. We could be looking at two and a half years from now at least before we get answers.

And we need to make sure we know what the unknowns are and try and address them the best way we can, given the uncertainty, and try and look for flexibility in business and operating models. If I look across the market, there is already a great deal of variation. There are some players in the capital markets who have a dual centre of operation for manufacturing and distribution. And they're pressing ahead with all the existing EU reforms, MiFID and others, continuing at full pace with implementation.

There are others who don't have that model but are asking: "do I need that sort of optionality depending on where some of these big decisions land? And do I want to start building that optionality?"

It's worth remembering optionality and dual-centre models are what we used to call in previous years balkanisation. It comes at a cost. Usually there's a higher capital requirement and there's a higher cost of doing business. But that may be a price people pay because they want that sort of optionality right now. If we get a better outcome, great, but if it's the worst case outcome, well at least the business is fit for purpose.