

Written evidence submitted by the UK Finance (FRE0109)

1. What are the characteristics of the UK financial services sector, the relative sizes of the different services provided, and which parts of UK financial services exports rely on market access with (a) the EU and (b) the rest of the world?

1. While many jurisdictions host large and sophisticated financial services sectors supplying their domestic market, the UK has both this capacity and a large international service base. The international wholesale market focuses on capital markets, derivatives, lending and currency services provided to counterparties outside the UK. Especially for derivatives and foreign exchange services, the UK is by some margin the most important centre in the global economy.¹ The UK is also a global centre for investment management, which is a resource for the UK's domestic pension fund sector as well.
2. The UK is a major player in international trade in financial services. However, measuring this performance is much more difficult than measuring trade in categories of goods, which are recorded at the border. The UK runs a large surplus in cross-border trade in financial services: £63.2 billion in 2018.² However, while this is an important metric, it is only part of the picture. The true measure of the UK's financial services exports should also include the services supplied by UK-based banks via their branches and subsidiaries in dozens of jurisdictions globally, which are not fully captured in balance of payments statistics. In many cases, these earnings from establishment abroad will dwarf cross-border trade flows, and any international policy for financial services needs to reflect this.
3. For cross-border services, the bulk of UK supply to both the EU and the rest of the world is wholesale banking, capital markets (including corporate finance) and currency services provided to professional counterparties outside the UK.³ This reflects both the UK's strengths and the fact that cross-border trade in retail financial services tends to be limited for regulatory reasons. It is in these wholesale areas that EU passports have conventionally been of greatest importance.
4. However, UK banks supplying services through regulated branches and subsidiaries abroad provide the full range of both wholesale and retail services in those markets, including deposit taking, lending and other forms of credit and retail payments. In both the EU and the rest of the world, these services depend on rights to establish foreign financial services businesses and fair treatment once they are established.

2. What is the difference between the UK's ability to sell financial services into the EU under the current passporting regime and (a) the equivalence arrangements for financial services and (b) no EU equivalence decisions for financial services for the UK?

5. Passporting as a concept broadly allows an entity authorised in one EU member state to use that authorisation to supply services in any other member state without full local authorisation there. Passporting covers a wide range of financial services activities. The
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¹ See <https://www.thecityuk.com/assets/2019/Report-PDFs/38f8518200/Key-facts-about-the-UK-as-an-international-financial-centre-2019.pdf>.

² See <https://www.thecityuk.com/assets/2020/Reports/05a3382368/Key-facts-about-UK-based-financial-and-related-professional-services-2020.pdf>.

³ In this context, a professional is generally a qualified counterparty with sufficient specialist competence to be operating outside the consumer protections applied to retail customers.

rights conferred by the passporting system are robust and generally very reliable as the underlying principle is structurally embedded in fundamental EU law.⁴

6. Equivalence does not equate to passporting and largely benefits firms in the jurisdiction making the equivalence decision, not third country firms. EU law prescribes the exact areas where equivalence decisions can be made. There are over 50 potential areas where the EU can decide that the regulatory or supervisory regime of a non-EU country is equivalent to the corresponding EU regime. An equivalence decision typically:
 - allows authorities in the EU to rely on supervised entities' compliance with equivalent rules in a non-EU country,
 - reduces or even eliminates overlaps in compliance requirements for both EU and foreign market players,
 - makes certain services, products or activities of non-EU companies acceptable for regulatory purposes in the EU, or
 - allows a less burdensome prudential regime to apply to EU banks and other financial institutions with exposures in equivalent non-EU countries.
7. In a small number of important cases, an equivalence determination forms the basis for a right to supply a service cross-border into the EU without additional authorisation in the EU.⁵ The most important of these is for investment services under the Markets in Financial Instruments Directives/Regulation (MiFID/MiFIR).⁶ However, this regime has not yet been activated for any third country.
8. It is important to emphasise that, while this regime superficially resembles a passporting right, it will be different in a number of ways if it is ultimately activated for the UK. It will generally confer only specific rights in specific areas,⁷ generally limited to supplying non- retail customers. It does not confer the full protections of EU law. Its basis is a judgement of alignment between the EU and a third country that can be withdrawn at the EU's discretion at short notice. The usefulness to businesses of the equivalence regimes is

⁴ The Treaty on the Functioning of the European Union gives European firms the freedom of establishment and the freedom to provide services within the Union. The single market directives, which underpin the passporting regime, clarify the rights and freedoms bestowed on financial services firms by the Treaty. These rights are augmented by the passporting regime, which requires host regulators in the EU to defer to home regulators in allowing passporting firms access and the same treatment as "local" ones.

⁵ Although full authorisation is not required, registration with the European Securities and

Markets Authority (ESMA) is.

⁶ In June, we and Clifford Chance produced a technical note on MiFIR equivalence. See <https://www.ukfinance.org.uk/policy-and-guidance/reports-publications/technical-briefing-what-the-mifir-third-country-regime-means-for-uk-eu-cross-border-services>.

⁷ This “patchiness” is an exceptionally important feature of the equivalence regime when compared to passporting. Passporting allows services to be “bundled” in a way that equivalence does not. This is especially true of the bundling of banking and investment services, which is possible under passporting but will be heavily constrained under even an optimistic equivalence outcome on the current trajectory.

severely limited by this inherent instability. It is very hard to run any business on the basis of an equivalence decision that can be unilaterally reversed at very short notice.

9. Importantly, other constraints on cross-border business may mean that a UK firm operating cross-border in fact has far more constrained operational freedoms than an EU firm operating under the same framework domestically. For example, UK firms registered to supply services under article 47 of MiFIR may nonetheless find that restricted access to EU regulated markets, derivative trading obligations (DTOs), share trading obligations (STOs) or transaction reporting or transparency obligations may inhibit or limit the freedom to supply those services cross-border unless additional equivalence determinations are forthcoming.
10. The absence of equivalence determinations can have a wide range of implications, many of them negative. It can, for example, limit the nature of exposures that EU firms can take to UK counterparties (or vice versa) or remove the basis on which certain activities can be undertaken on a cross-border basis. These happen to be key UK strengths. The implications of this are considered in more detail below.

3. Which aspects of UK financial services are covered, or not covered, by the equivalence proposals? How is the UK seeking to establish new arrangements with the EU for those areas not covered?

11. As noted above, equivalence is limited to specific provisions in specific pieces of EU law and generally benefits EU, not third country, firms. It does not typically act as the basis for rights to the cross-border provision of services by third country firms. The benefits of the passport cannot be replicated, and UK firms do not generally expect to be able to service EU/EEA clients cross-border as they do now after 2020.⁸
12. The UK government's approach has been to focus on ensuring that these regimes are activated and in place as the basis for UK firms to supply EU counterparties at the end of the transition period. It has strongly implied that the same can in be in place for EU firms in the UK. The UK has proposed that, in parallel to this, the EU and the UK should seek to strengthen the framework for consultation and coordination regarding the determination, maintenance and any potential withdrawal of equivalence determinations in future. This is something we would strongly support as increasing the stability of the regime will vastly increase its usefulness.
13. For services not covered by potential equivalence determinations and where cross-border supply is not possible in the absence of such a determination,⁹ the government's assumption has correctly been that supply will be conducted through branches and subsidiaries in the EU.¹⁰ In many cases, UK financial services firms have based their

⁸ However, a small number of services can be provided cross-border to clients in specific EEA member states under their national regimes even in the absence of both passporting

and equivalence. In some cases, this is because those services (e.g. corporate lending) are unregulated.⁹ See footnote 8 above.

¹⁰ It should be noted that the distinction between operating via a branch and a subsidiary is a meaningful one, and both can pose challenges. Full subsidiaries are often the more realistic option for supply from within the single market, not least because of the advantages they carry from operating within the EU passporting regime. However, they also come with higher capital, liquidity and substance requirements, which may be prohibitive. Thus, it should not be assumed that the alternative of relocation to the EU is simple or even always possible.

Brexit mitigation strategies on ensuring they have an authorised presence in the EU for such supply.

14. In other areas, such as payments, UK consumers and businesses will continue to be able to make credit transfers and direct debits in euros through the Single Euro Payments Area (SEPA) schemes as the UK remains within its geographic scope. Similarly, UK customers will still be able to use their debit or credit card in the EU. UK and EU customers may, however, incur differing transaction charges on credit transfers and card payments.
15. There are other areas where equivalence will not address the issues that will arise from the UK's departure from the EU. EU-based retail and business customers of UK-based banks may, in the absence of additional guidance or advice from EU regulators, encounter service disruption (at best) and/or see their products being withdrawn (at worst). This might include a customer who was living in the UK, has since moved to the EU and is using UK-based retail products. This could potentially lead to significant detriment to those customers and risks exacerbating market volatility in the absence of specific UK/EU measures address it. These products range from savings, loans, credit cards, bank accounts and mortgages to custody, execution-only, advisory and discretionary investment management services.
16. It will also be important for the UK to consider the EU's equivalence determinations, too. For example, with regards to capital treatment under the Capital Requirements Regulation, UK-based banks holding capital or exposures to EU firms would benefit from a determination recognising capital from EU-based institutions in the manner it is recognised now to avoid a sharp increase in their cost of capital. The same can be said for UK recognition of EU central counterparties and trading venues via the European Market Infrastructure Regulation and MiFIR.

4. What are your views on the proposals put forward on financial services by both the UK and the EU in their draft legal texts? What other aspects of the UK-EU relationship are relevant to the financial services 'ecosystem' and yet to be clarified, in particular (a) related professional and business services, (b) data adequacy, and (c) labour mobility?

17. The government has adopted an approach that broadly mirrors that to financial services in recent EU free trade agreements (FTAs). This focuses on guaranteeing as much as possible of current EU third country access and treatment and securing commitments to non-discriminatory treatment for UK financial services firms operating in the EU. The government wants to go beyond this by agreeing a set of provisions on regulatory cooperation and consultation, similar to ideas floated by the EU during the Transatlantic Trade and Investment Partnership negotiation with the US and which have appeared in some forms in the EU/Japan FTA.
18. Such provisions would be welcome. As noted above, a fundamental shortcoming of equivalence is its inherent instability. We therefore strongly support efforts to stabilise the regime. Increasing predictability and transparency of the process for reassessment and possible withdrawal of equivalence would significantly increase the usefulness of the equivalence regimes for UK firms seeking to do business in the EU.

19. However, even where equivalence decisions are activated, the rights of UK firms as third country firms benefiting from equivalence will fall far short of the rights those firms had when the UK was an EU member state. Equivalence does not rival passporting in terms of the breadth of services that can be supplied across borders. For example, many

banking services, such as deposit taking and lending, are not enabled by equivalence. It is now clear that some equivalence regimes will not be activated for UK firms in the short to medium term.¹¹ It is also clear that the rights of UK firms after the end of the transition period will be much reduced compared to now.

20. It is, of course, important to see these commitments as linked to any wider framework that the EU and the UK agree. Financial services operate as part of an ecosystem of professional services, and it is important to ensure this has broadly aligned access to EU markets so UK firms, their suppliers and their partners can implement EU strategies in parallel.
21. Financial services also depend heavily on several flanking policy frameworks that facilitate both cross-border trade and commercial establishment in the EU. A firm legal basis for cross-border transfer of personal data is important in this respect and will need to be agreed irrespective of the outcome of any FTA negotiations.
22. Alongside whatever short-term business mobility and long-term residency arrangements the UK and EU member states agree, it will be important to have open and flexible arrangements for short-term posting of defined categories of professional staff between the markets. This does not have to be agreed as part of an FTA, but an FTA can establish useful principles for such arrangements.

5. What is your view of the Commission's announcement that it is not even considering UK equivalence for a number of sectors, including investment services under MiFIR?

23. The European Commission's announcement was disappointing. While it is of course true that aspects of the EU's regime are currently under review, it is not necessarily obvious that the review will change the basic aims and prudential outcomes of the regime. That being the case, it is not clear that equivalence determinations are rendered impossible by the review process.¹²
24. We also note that uncertainty over the equivalence outcome at this moment, especially when coupled with warnings from the European Central Bank (ECB) about EU firms relying on equivalence-based supply,¹³ creates a clear incentive for the migration of business out of the UK into the EU. Once a UK firm has withdrawn from providing services to certain clients and other clients have been repapered to an EU entity, it is unlikely that those clients would return to the UK firm. The longer the period of uncertainty, the more significant the transfer of business away from the UK and into the EU.
25. It is worth noting that decisions on how much business migrates to the EU and how much stays in the UK are not simply a question of what the EU institutions are willing to accept

¹¹ See pages 13-14 at

https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/com_2020_324_2_communication

[from commission to inst en 0.pdf](#) . This position is discussed below.

¹² The EU's current "quick fix" review and amendment of the MiFID/MiFIR regime in response to covid-19 is a reminder that, with adequate political will, a "cliff-edge" for investment services could be avoided.

¹³ See

<https://www.bankingsupervision.europa.eu/press/blog/2020/html/ssm.blog200709~0568e283b2.en.htm>. The argument that the EU does not, in fact, see its own equivalence framework as a robust basis for cross-border supply is interesting.

in terms of supply from the UK but also what EU firms will be able to secure at the end of the transition period and at what cost. While EU firms and the EU subsidiaries of UK firms may provide some continuity from within the single market, these suppliers will generally be smaller, less diversified and with smaller capital bases. This has implications for service, prudential resilience and cost.

26. Even if it is not possible to obtain equivalence under article 47 of MiFIR, we strongly urge the government to continue to press for mutual equivalence for the purposes of the DTO. As it stands, there is a significant conflict between the UK DTO and the EU DTO when UK and EU counterparties trade cross-border or firms trade through their branch. Absent equivalence (or some other solution), firms will be forced to trade DTO products on US swap-execution facilities, and this will increase the operational complexity and cost of trading.

6. How does the delay in the EU's decision on equivalence, and the ongoing uncertainty in clarifying what the future EU-UK relationship will look like, impact upon the sector's ability to prepare for the 1 January 2021? What is the final date when clarity is needed if businesses are to get ready for new ways of working?

27. It is unlikely that any firm in the UK is wholly relying on equivalence as the basis for serving EU clients from 1 January 2021. While some may continue to allow for this contingency and hope for it to be achieved, firms have responded to the uncertainty by ensuring they have alternative arrangements in place. In many cases, their supervisors have required the demonstration that this resilience is in place.¹⁴ The result has been a material transfer of balance sheet capacity to EU-based entities that will only increase if no equivalence solution is ultimately found.¹⁵

7. What would be the economic impact of the UK not obtaining equivalence from the start of 2021? What actions have UK financial services firms taken in anticipation of this possibility?

28. The economic impact of not obtaining equivalence varies with the policy function of equivalence in different areas, and it is impossible to measure with precision in almost any context. In the limited cases where equivalence potentially underpins market access, its absence has a cost in terms of services not supplied, but it can also result in a service being delivered via the channel of commercial establishment, which transfers the revenue from one part of an operation to another.
29. For UK-based groups with EU subsidiaries, it could be argued that the revenue will ultimately return to the UK headquarters, but there are implications for employment and taxes in the UK. For UK-based firms with parents outside the UK, an EU subsidiary may not necessarily lead back to the UK entity.

¹⁴ However, it should be stressed that it is not the case that there is an alternative trading

model in the absence of equivalence for every area currently covered by passporting (see observations on DTO equivalence above). Similar issues apply to the need for a mutual equivalence decision on STOs. In both cases, UK firms will need clarity on outcomes by September 2020 at the latest.

¹⁵ This division of liquidity between UK and EU entities is a practical complication and can affect price for consumers.

30. As for UK-based firms that currently rely on passports and have no ability to serve clients from within the EU, we can know for certain that not obtaining equivalence would be economically negative, essentially measured by the lost capacity to serve EU customers.
31. As would be expected, the response of firms to losing passporting and the uncertainty of equivalence has been to ensure they have the legal entities, authorisations and practical capacities to supply EU clients from inside the EU. In many cases, they have been required to ensure this by the supervisors of the jurisdictions in which they wish to operate.¹⁶

8. To what extent would you expect the EU to make equivalence dependent on commitments by the UK on continued regulatory alignment in financial services, and how should the Government address those demands?

32. We have only the past to draw on here as a predictor of future EU conduct, and that is probably a poor guide because previous equivalence decisions have affected countries and firms that are not as geographically proximate or as significant for the EU as the UK. There will always be a higher bar for the UK compared to any other jurisdiction as the UK is both close to the EU and already integrated into its financial system.
33. It is also vital to understand that equivalence decisions are always inherently political and taken with the broader interests of the EU in mind (e.g. the integrity of the single market) even though they are based on a technical assessment of whether the relevant third country rules have equivalent effect to the EU ones. Although technical assessments are stipulated to be determinations of whether rules have “equivalent effect,” the focus will often be as much on the extent to which the detailed formulation of rules matches that of the EU.¹⁷
34. This is the context in which the UK will have to make judgements about the alignment of its regime with that of the EU in future. It is unlikely ever to be perfectly clear in advance what may or may not be judged as unacceptable divergence in Brussels. However, we can be sure that the EU will closely scrutinise not only formal UK rules but also UK supervisory practice, probably expecting a very high level of alignment.
35. Decisions on whether alignment is the right choice for the UK will depend on the actual benefits of equivalence on offer and any concomitant benefits of diverging in a way that reflects UK specifics. If the EU continues to encourage firms not to rely on equivalence and UK firms are thus required, or choose for reasons of predictability and certainty, to supply through entities in the EU, the business case for alignment for the UK will have to consider that.¹⁸

¹⁶ However, as noted throughout, it is not always the case that simple solutions for

continuity are available in all cases. For some EU corporate customers, this can mean that January 2021 brings risks of service continuity or cost.

¹⁷ For example, the Investment Firm Review (IFR) requires such assessments to be “detailed and granular.” The EU has indicated in a range of ways that when conducting such assessments of the UK, it will see the UK’s size, proximity and close integration with the EU financial services market as key factors.

¹⁸ This was captured in the Chancellor’s recent written statement on the need to constantly assess the balance between equivalence and UK competitiveness. See

36. However, it is worth noting that there are reasons why alignment may make sense even in the absence of equivalence, to make it simpler and more economical to operate in the UK, both for UK firms with a European business and for global firms considering operating international businesses from the UK. Alignment can help ensure regulators in both jurisdictions can continue to work closely on issues of common interest. Some alignment will flow inherently from the fact that the UK and the EU will both continue to operate within multilateral frameworks such as the Basel system. UK alignment to global norms will, by its nature, secure alignment with much of the EU acquis (and vice versa).
37. In the area of payments, the UK financial services industry is committed to remaining part of SEPA, and this will require a degree of alignment, under the European Payments Council's participation criteria.¹⁹

9. What are your views on the areas of financial services where the EU is considering introducing legislative changes in the near future, such as for Capital Markets Union and Anti-Money Laundering, and how the UK might respond?

38. Each of these areas has to be considered on a case by case basis. Alignment with EU approaches in each case has different benefits and implications. Capital Markets Union is a wide-ranging agenda now focused in many respects on developing capabilities inside the EU that have historically been provided from London. We would argue that there is a strong case for the EU to take a regional view of its capital markets, in which London and the UK can be part of the European region's network of connections to international capital markets. Equivalence that underpins cross border lending and the effective management of risk through deep regional derivatives markets can be part of that.
39. Anti-money laundering (AML) and counter-financing of terrorism (CFT) is an area where there should continue to be close cooperation. This is important to protect customers from fraud, uphold the integrity of the UK as an international financial centre and tackle cross-border money laundering. All organised crime has an international dimension, and we see public/private intelligence sharing as vital to detecting and disrupting organised crime and terrorist financing. There are some signs that, unhelpfully, the Commission and other EU authorities take a different view of the case for close practical and operational cooperation. This should be an area where the government continues to push for a very high level of cooperation and alignment in practice. Close AML/CFT cooperation would also help avoid unnecessary disruption to correspondent banking and cross-border transfers of funds.
40. In both of these areas, the need for collaboration does not imply an issue of UK regulatory capability. The UK was a major driver of EU policy as a member state and will retain after the transition period the capacities to put in place a high-quality regulatory framework.

https://www.parliament.uk/business/publications/written-questions-answers-statements/written_statement/Commons/2020-06-23/HCWS309/.

19 See <https://www.europeanpaymentscouncil.eu/sites/default/files/kb/file/2019-08/EPC061-14%20v4.0%20Criteria%20for%20Participation%20in%20SEPA%20Schemes%20%28002%29.pdf>.

10. What structures are in place to facilitate cooperation between the respective regulatory bodies? What is outstanding that needs to be put in place to facilitate regulatory dialogue?

41. A functioning regulatory and supervisory cooperation framework will be crucial to support and underpin any financial services relationship. The post-Brexit relationship will involve migrating the dialogue conducted through the permanent structures of EU financial services policy to the channels of a third country relationship.
42. There are already some structures for managing the cooperation of the ECB and the Single Resolution Board with the Bank of England, not least through their supervisory and resolution colleges, although these do not always work as well as they could to remove duplication or drive coherent shared approaches. Policymaking structures need a new coordination framework that includes regulators like the European Banking Authority and the Financial Conduct Authority (FCA).
43. This can and should be rooted in the governance structure of a future framework and needs to include a full system of sectoral and expert committees. It needs to be adaptive, open and highly collaborative, and as much as possible it should try to retain the high level of contact in the previous EU relationship.
44. It needs to be underpinned by the necessary legal frameworks and mandates for data sharing. In this context, the recent confirmation of the multilateral memoranda of understanding between the FCA and the national competent authorities of the EU, and between the FCA and ESMA, are a very welcome development and will be important in supporting the delegation of business from the EU to the UK (and vice versa) in areas such as portfolio management.²⁰
45. Every detail of this does not need to be spelled out in the FTA, but the basic structure could and should be. Whatever method is ultimately used to promote the provision of financial services between the UK and the EU, it is important that it include a robust and permanent structure for dialogue. It will also be important to develop channels of cooperation and active dialogue on financial services policy between the UK and European parliaments.
46. A key challenge over the next few years will be sustaining, and to an extent rebuilding, a high level of trust between regulators and policymakers. No governance structure will compensate for its absence.

11. In which aspects of UK financial services is the UK looking to increase exports in financial services and to which specific markets? And what are the relevant regulatory structures that govern that trade with the rest of the world?

47. Financial services consumption correlates with growth, financial inclusion and financial market depth and sophistication. For UK firms, there is global opportunity wherever these trends are present. This can mean that there are opportunities for UK firms in highly sophisticated markets like the US, deepening markets within Asia and markets in

earlier

²⁰ See <https://www.fca.org.uk/news/statements/fca-confirms-mous-esma-and-eu-securities-regulators>.

stages of financial inclusion (e.g. some in Africa). Indeed, UK services firms are present in all of these markets.

48. Trade with these markets is governed chiefly by their domestic regulatory frameworks for cross-border trade and local establishment. The frameworks of the World Trade Organization (WTO) General Agreement on Trade in Services provide some core principles of non-discrimination, but is much less comprehensive in this respect than similar WTO frameworks for goods trade. States also use the WTO to make commitments to guarantee non-discriminatory access to their markets for financial services, although these are largely voluntary and relatively limited. One of the aims of UK FTAs will be to widen the scope of these commitments.
49. Cooperation and collaboration on domestic regulation and supervision is likely to be the single most fruitful strategy for improving UK access abroad. The UK should be a champion of an open approach to both importing and encouraging foreign investment in financial services. Global financial partnerships such as the one the UK is discussing with Switzerland are a good example of the kind of regulatory cooperation that can help give firms the certainty needed to conduct business internationally.
50. Regulatory cooperation is also a multilateral process. Regulatory coordination and cooperation at the international level are rooted in frameworks such as the Basel treaties and the institution of the Bank for International Settlements (BIS), the Financial Stability Board (FSB) and regulatory coordination bodies such as the International Organization of Securities Commissions (IOSCO). These fora are important for the upstream development of regulatory norms and are all areas in which the UK has material influence and expertise, even as a non-EU member state.

12. How does the UK financial services industry benefit from trade arrangements between the EU and third countries? How many such relationships have been replicated? And what needs to be negotiated still?

51. The EU's FTAs have only limited content on financial services and have generally been limited to confirming some existing rights for EU exporters and creating some new institutional channels for regulatory dialogue. While rolling over the EU's most important FTAs for the UK is exceptionally important for goods trade and in some other areas, in financial services it is not a critical continuity issue.
52. However, the EU does have a range of other bilateral frameworks that need to be replicated for the UK as a matter of material importance for 1 January 2021. These include adequacy agreements for the transfer of personal data, equivalence determinations where these are an EU prerogative that has been onshored to the UK and standalone agreements directly related to financial services operations such as the EU-US Covered Agreement on Reinsurance. In most cases, these have, or are intended to be, replicated for the UK.

13. What are the longer-term challenges and opportunities for UK financial services?

53. The UK needs a strong domestic financial services sector and to be a platform for exports

regionally and globally. Technology has made it more feasible than ever to trade financial services provided we can build regulatory models that can reflect the complexities of operating between jurisdictions. This should be an agenda that the UK champions.

54. As financial services are a critical factor for any economy, it is important that the UK continue to attract financial services FDI from around the world, supporting models that allow UK businesses and investors to import high quality services at the most competitive cost. This makes our own capacity for innovative and supportive regulation vital.
55. Future reforms should be cognisant of the contribution of foreign-headquartered financial services firms to the UK's economy and status as a global hub. The government should encourage more overseas-headquartered firms to retain and grow their UK presence by ensuring regulation is appropriately targeted, proportionate and applicable to global operating models and cross-border working practices.
56. Focusing on factors that would allow the UK to continue to be both a big exporter and a big recipient of FDI in financial services will mean making sure the UK remains a good place to headquarter global groups and locate exciting fintech start-ups and supporting the regulatory reform and liberalisation in our trading partners that encourage UK investment and market entry and the fair treatment of UK-based firms in those markets.
57. As a general rule, the UK should ensure it remains open to financial services, maintaining the ability to facilitate and enhance cross-border business. This means minimising barriers to financial services imports and exports and maximising consistency with the international standards on which UK and EU regulation is based. The UK should preserve ultimate autonomy in all areas of its financial services rulemaking. However, this should not act as a check on its commitment to international rulemaking through the BIS, the FSB, IOSCO, the Conference of the Parties, the United Nations and the G20, which should be seen as a way of encouraging global standards. The UK should be pragmatic about the costs and benefits of voluntarily aligning with EU rules where this supports useful EU recognition.
58. We look forward to these issues being addressed in particular through the government's Financial Services Future Regulatory Framework Review, Payments Landscape Review and Fintech Strategic Review.

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Committee on the Future Relationship with the European Union

House of Commons, London, SW1A 0AA

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23 July 2020

Bob Wigley
Chair
UK Finance

Dear Mr Wigley,

The House of Commons Committee on the Future Relationship with the European Union is inquiring into the progress of the negotiations between the UK and the EU. Under normal circumstances, the Committee holds regular oral evidence sessions in Westminster. However, measures to prevent the spread of the coronavirus make this difficult.

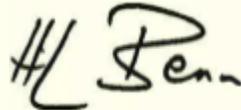
The Committee is keen to gather as much evidence as possible to inform its deliberations so I am writing to you to ask whether you would be willing to help us with our work by making a written submission. We welcome general responses to our [call for evidence](#), which was published on 4 March. We also hope that you would be willing to answer some of the more specific questions set out below on issues that fall within your area of expertise. Submissions need not address every bullet point and can include other matters that you think are relevant to the negotiations and should be drawn to the attention of the Committee.

- What are the characteristics of the UK financial services sector, the relative sizes of the different services provided, and which parts of UK financial services exports rely on market access with (a) the EU and (b) the rest of the world?
- What is the difference between the UK's ability to sell financial services into the EU under the current passporting regime and (a) the equivalence arrangements for financial services and (b) no EU equivalence decisions for financial services for the UK?
- Which aspects of UK financial services are covered, or not covered, by the equivalence proposals? How is the UK seeking to establish new arrangements with the EU for those areas not covered?
- What are your views on the proposals put forward on financial services by both the UK and the EU in their draft legal texts? What other aspects of the UK-EU relationship are relevant to the financial services 'ecosystem' and yet to be clarified, in particular (a) related professional and business services, (b) data adequacy, and (c) labour mobility?
- What is your view of the Commission's announcement that it is not even considering UK equivalence for a number of sectors, including investment services under MiFIR?
- What would be the economic impact of the UK not obtaining equivalence from the start of 2021? What actions have UK financial services firms taken in anticipation of this possibility?
- To what extent would you expect the EU to make equivalence dependent on commitments by the UK on continued regulatory alignment in financial services, and how should the Government address those demands? How should the Government approach equivalence in areas, such as derivatives clearing, in a way that protects the UK's financial ecosystem while maximising the ability of UK financial services to continue to operate in the EU?
- What are your views on the areas of financial services where the EU is considering introducing legislative changes in the near future, such as for Capital Markets Union, Solvency II, and Anti-Money Laundering, and how the UK might respond?
- What structures are in place to facilitate cooperation between the respective regulatory bodies? What is outstanding that needs to be put in place to facilitate regulatory dialogue?

- In which aspects of UK financial services is the UK look to increase exports in financial services and to which specific markets? And what are the relevant regulatory structures that govern that trade with the rest of the world?
- How does the UK financial services industry benefit from trade arrangements between the EU and third countries? How many such relationships have been replicated? And what needs to be negotiated still?
- How does the delay in the EU's decision on equivalence, and the ongoing uncertainty in clarifying what the future EU-UK relationship will look like, impact upon the sector's ability to prepare for the 1 January 2021? What is the final date when clarity is needed if businesses are to get ready for new ways of working?
- What are the longer-term challenges and opportunities for UK financial services? What is the sector doing to make sure UK financial services are competitive globally?

The Committee staff will be happy to discuss the inquiry, any issues raised, or the process for submitting written evidence. You can contact them at freucom@parliament.uk.

Yours,

A handwritten signature in black ink, appearing to read 'H/ Benn'.

Hilary Benn
Chair of the Committee