GSK Update

20 March 2018

BREXIT – How far they got and will get down

Executive Summary

> On 22 and 23 March 2018, the EU leaders will finally agree the negotiation guidelines regarding phase 2 of the Brexit negotiations, dealing with the future relationship between UK and EU.

> This week, major issues of phase 1 of these negotiations (citizens' rights, exit bill and transition period, but not the Northern Irish border issue) seem to have been settled, but it might well be that not all EU member states are happy with the results. Phase 2 will now focus on a free trade agreement (FTA). But nothing will be agreed until everything is agreed.

> Currently, there are still "significant points of disagreement" between UK and EU. In regard of the future FTA such differences are for example

- the inclusion of financial services (UK: definitely, EU: possibly),
- if so, third country equivalence rules under EU legislation (EU) or a new mutual recognition and access system with an arbitration body, a "Forum for Regulatory Alignment" (UK),
- the degree of tolerance by the EU regarding the UK's "cherry-picking" approach,
- EU Customs Union or not (EU) or new "customs partnership" (UK),
- dominant role of European Court of Justice (ECJ) or arbitration regime and/or UK courts (UK), and the degree of additional supervision of EUR clearing London clearing houses by the EU.

> Furthermore, there are also "national troubles" on both sides: In the UK, an endangered parliamentary majority for the EU Withdrawal Bill, new power-sharing requests from Scotland and Wales and the impossibility to replace existing EU free trade agreements with national ones in the short time remaining, and in Germany for example the open question for a need for additional national Brexit legislation.

> In the light of all of the above, most market participants are preparing for a worst case scenario, the "hard Brexit". Anything else would be imprudent and inappropriate. Large financial market players have already started to move business to the Continent, namely to Frankfurt, Paris, Luxembourg and Amsterdam, and to Dublin. All who have still not started to prepare and to activate "plan Bs" now really need to "swing their hooves".

BACKGROUND

On 23 June 2016, the British surprisingly decided (with a small majority) in the so-called Brexit referendum that the UK should exit the EU. Nine months later, on 29 March 2017, HM Government notified the European Council of its intention to leave the Union, effectively triggering the withdrawal procedure under article 50 of the Treaty on European Union (TEU). As a result, as of 30 March 2019 the UK will no longer be an EU member state and become a "third country" (for further details please see our GSK Update of 25 April 2017 "More Brexit: Exit Procedure started…").

Since June 2017, the UK Government and the EU are negotiating in Brussels the "Withdrawal Agreement" pursuant to article 50 of the TEU. In the first round of talks the UK has accepted a two-phase negotiation approach under which the discussions in 2017 had been focused on the three subjects identified as the most crucial issues,

namely citizens' rights, the exit bill to be paid by the UK and the future of the Northern Irish border. Unfortunately, in the first five monthly negotiation rounds in the second half of 2017 there was not much progress made.

Originally, it had been agreed that in October 2017 EU chief negotiator Michel Barnier should give a report to the EU27 on whether there has been sufficient progress to justify to enter into a second phase of talks, in particular in regard of a "Free Trade Agreement" (FTA) desired by the UK (for further details please see our GSK Update of 13 September 2017 "Brexit is coming! State of negotiations…").

However, in October 2017 M. Barnier came to realise that there had not been enough progress made for such a step and the decision was postponed to the EU Summit in December 2017. And on 15 December last year, the EU leaders indeed decided to give the green light for Brexit negotiations to move to their second phase, talks about their future relationship. This was based on a joint proposal from UK and EU negotiators only hours before (quintessentially, the rights of EU citizens living in the UK and of UK citizens living in the EU had seemed to be solvable, the UK accepted in principle to pay its exit bill and both sides expressed their desire not to have a hard border between Ireland and Northern Ireland). And the UK had expressed its desire for a transition period of roughly two years in which it would still abide EU laws but not be involved in the decision-making anymore. In respect of the latter, guidelines on possible transition rules from the EU's perspective were also concluded (Appendix 1).

The agreement on the future relationship between UK and EU is regarded as a matter separate from the Withdrawal Agreement. At the next EU Summit on 22 and 23 March 2018, the EU27 leaders will finally agree the negotiation guidelines on the trade matter. And then the negotiations regarding phase 2 matters, a further agreement on the future relationship, a kind of FTA, will go into their hot phase.

PRESENT POSITIONS

Both sides will go into these negotiations with rather different, if not contradictory, ideas and targets – something one should not over-emphasise as this is a rather common pre-negotiation scenario. But where are they coming from and what do they really want to get?

UK preparations

Looking at the UK's position, and as it is a predominant issue for both UK and EU to come to an agreement on the future of financial services, it is worth to mention that in September 2017 the International Regulatory Strategy Group (IRSG, co-sponsored by TheCityUK and the City of London Corporation) and law firm Hogan Lovells have published an extensive report entitled **"A New Basis for Access to EU/UK Financial Services Post-Brexit"**, which seems to have some influence on the UK Government's perspectives and hopes. It identifies mutual access to each other's markets and how to manage future changes as key issues to be solved. Against the background of the EU Withdrawal Bill (European Union (Withdrawal) Bill 2017-19, formerly known as the Great Repeal Bill; please see our GSK Update of 25 April 2017 "More Brexit: …, Repeal Act Proposed, …") under which (at least temporarily) the entire EU "*acquis communautaire*" shall be converted into UK law, they, *inter alia*, have proposed to maintain mutual access to each other's financial services markets based on the establishment of a "Forum for Regulatory Alignment" as a new type of body in order to co-operate and co-ordinate financial supervisory matters, to assess and manage regulatory changes on both sides and its impacts on regulatory alignment. Basically, they propose "business as usual" (ie before Brexit) justified by a concept of "managed divergence".

Furthermore, in January 2018 both chambers of the British Parliament have published Brexit-related reports:

(i) The **"EU Exit Analysis" by the House of Commons** (Appendix 2) has attempted to analyse the impact of Brexit on various industry sectors, including financial services, and has come to the conclusion: "As a result of these factors, London's status as a financial centre could be severely eroded".

(ii) **"Brexit: the future of financial regulation and supervision" published by the House of Lords** on 27 January 2018 (Appendix 3) has

- analysed the EU law's third country "equivalence" provisions (Prospectus Regulation, Transparency Regulation, Accounting Directive, CRA3, Statutory Audit Directive, EMIR, CSDR, SFTR, BMR, SSR, MAR, Solvency 2 Directive, MiFID2, MiFIR and CRR);

- concluded that an "equivalence" framework would not be a reliable long-term basis for both sides, and that, instead, a close trade cooperation and deep supervisory cooperation based on a FTA would be the more desirable way of mutual market access post Brexit; and

- found it important that the UK will in the future "tailor the regulatory framework to its own priorities" in order to foster innovation (eg in the fintech sector), in some respects diverging from international standards.

For a long time the EU representatives had required a clearer position from the UK on what and when it wants to achieve and how. Due to the diverging views in the entire country, her own party, the Parliament and actually her own cabinet (as well as to the fact that she and her Government continue to rely on the parliamentary support of Northern Irish splinter party DUP), this was for Theresa May nearly impossible to deliver. However, impressingly, on 22 February 2018 prime minister May, for the first time, managed to unite her cabinet on the Brexit matter. At a meeting in her country seat **Chequers** an unified negotiating stance was agreed, and a few days later it became clearer what this meant.

In her **Mansion House speech** on 2 March 2018 (Appendix 4) she made a major step forward, *inter alia*, by acknowledging that the Northern Irish border issue is still unsolved (as a customs and/or regulatory border in the Irish sea is for her inconceivable – which for a while seemed to be in contrast to Boris Johnson's view on this matter), and that it is the UK's responsibility to help to find a solution. In this context, it is important to note that she might have diminished this problem by proposing, instead of for the UK to remain a member of the unwanted EU Customs Union, to establish a "customs partnership" with highly streamlined customs arrangements, using technology to help minimise checks at the border. Moreover, she expressed the UK's desire to remain "associate member" in certain EU agencies and organisations, including Euratom, to maintain certain EU regulations (eg on state aid or competition law) and not to allow a regulatory race to the bottom. However, although she understands that in financial services new mutual access rules will have to replace the EU passporting rules, she also insisted that a future trade deal with the EU must be "tailored to Britain's national interests and its complex network of industries" (as the British economy is dominated by the financial services sector, it is not entirely clear what "network of industries" she talked about). In her view, no existing trade deal of the EU (eg with Canada, South Korea or Ukraine) is fully appropriate as a blueprint for the future trade deal between UK and EU.

As her position on the future trade deal comes down to Britain accepting some EU rules and regulations and others not (which not only evil minded persons might call a kind of "cherry-picking"), it is not surprising that the EU immediately refused these ideas as "illusive". And, at least in Germany, since then politicians are not getting tired of mentioning that all EU members had been so blessedly united in their refusal of these old British "special deal" fantasies. But criticism came also from within the UK, most notably from ex-prime ministers Major and Blair and ex vice prime minister Sir Nick Clegg who spoke of a "deeply dishonest intellectual project" doomed to fail under the weight of its contradictions.

EU preparations

On the other side of the English Channel (*La Manche*), the EU was also not lazy in its preparations for the forthcoming trade negotiations.

For example, on 21 February 2018 the **EU Commission** has published a 58 pages **paper on "Internal EU27 preparatory discussions on the framework for the future relationship: "Regulatory Issues""**. It has compared the Single Market with FTAs and, not surprisingly, came to the conclusions that EU internal market regulatory tools do not work for FTAs, a "full dynamic alignment with EU *acquis*" has been tried before and was "unsatisfactory" (Switzerland is mentioned in this context as an example), and that thus, "as a result, internal market regulatory tools are not available in FTAs". The UK view of regulatory issues is seen as not compatible with EU principles. The EU's negotiations shall be based on four principles: (i) Autonomy of EU decision-making, (ii) preserving the role of the European Court of Justice, (iii) no sector by sector approach and (iv) avoidance of upsetting existing relations with third countries.

Furthermore, between 2017 to February 2018 the EU Commission has also published a large amount of so-called **"Notices to Stakeholders"** on all kinds of different Brexit aspects (including animal feed, asset management, banking and payment services, biological products, breeding animals, civil justice and private international law, credit rating agencies, customs and indirect taxation, EU Ecolabel, food law, financial services, genetically modified organisms, import/export licences, industrial products, insurance and reinsurance, trademarks and community designs, live animal transports, markets in financial instruments, medical products, natural mineral waters, motor vehicles, plant protection, plant variety rights, public procurement, road transport, seafarers' certificates, seeds, slaughterhouse operators, statutory audits, substances of human origin, waste law, etc).

However, currently the most important preparatory papers on the EU side are the draft Withdrawal Agreement (Appendix 5) and the guidelines for the FTA negotiations by EU Council (Appendix 6) and European Parliament (Appendix 7).

The **European Commission's "Draft Withdrawal Agreement"** is dated 28 February 2018 and it contains 168 articles and a number of protocols and annexe on 120 pages. The draft covers those issues that had already been agreed at the EU's December 2017 Summit (namely citizens' rights and the UK's exit bill) as well as the positions of the EU in regard of the still open issues (eg border controls between Northern Ireland and the Republic of Ireland). Another unsolved but crucial issue is the transition period until the end of 2020 – which is still not guaranteed (for example because prime minister May intends to treat EU citizens moving to the UK during this transition period worse than those who had moved before, and this seems rather unacceptable to the EU side). As Michel Barnier put it, there are still "significant points of disagreement".

The latter is probably the least one can say about the positions on the future trade deal. A first draft of the **EU Council's draft guidelines** had already been published on 20 December 2017, and its current version has been on 7 March 2018. In this 6 pages document, *inter alia*, the UK is offered tariff-free trade in goods, but only if both sides agree to maintain existing rights to fishing waters (which the cabinet minister in charge, Michael Gove, and others are likely to find a provocation). Although it is set forth that a trade deal could cover services too, but it is also said that this would be limited to what is currently on offer to other non-EU countries such as Canada (which rejects Theresa May's demand for a "Canada plus" deal).

Slightly more detailed (on 13 pages) is the **European Parliament's draft guidelines** dated 7 March 2018. For example, in its item 17 it is stressed, in the context of financial services, "that decisions on equivalence are always of unilateral nature" and that "prudential carve-out and limitations in the cross-border provisions of financial services are a customary feature of FTAs". Moreover, in item 18 it is emphasised in the context of a desirable "robust dispute settlement

mechanism" that it is the European Court of Justice which has the competence for the interpretation of questions related to EU law (a point that has become even more important after the said court has decided on 6 March 2018 (Case C-284/16 Slowakische Republik vs. Achmea BV) that arbitration clauses agreed between member states are incompatible with EU law if they do not ensure that disputes will ultimately be decided by a court within the judicial system of the EU).

ONGOING "SIGNIFICANT POINTS OF DISAGREEMENT"

All these still controversial issues on the Withdrawal Agreement, including the transition period, and in principle on the future trade deal will have to be settled in the next few months following the EU Summit on 22 to 23 March 2018. This is not only worrying in light of the (non-)speed of the negotiations so far but in particular as nothing will be agreed until everything is agreed. Currently, many in the markets take a rather pessimistic view and consider a "hard Brexit" (ie a Brexit without such agreements) to be the more likely scenario. This type of uncertainty about the future disturbs market participants, particularly in the financial markets sector, perhaps more than the prospect of an FTA looking more like the one with Turkey or Ukraine than "Canada plus".

Phase 1 matters

In the very last minute, on 19 March 2018, UK and EU negotiators have reached basic agreement on most of the still open phase 1 matters:

- **Citizens' rights** had continued to be discussed controversially as the British side intended to grant EU citizens moving to the UK during the desired transition period between 1 April 2019 and 31 December 2020 no longer an automatic right of residence but subject them to a more burdensome registration system, which the EU side declared to be unacceptable. This was a sad controversy, in particular because already in February 2018 the UK's Home Office had to admit that the new system to register EU migrants after Brexit "may not be ready in time" anyway (which the tory MP Jacob Rees-Mogg commented: "… a sad admission of incompetence at the Home Office" – with (party) friends like this, one doesn't need enemies). However, now agreement has been reached that EU27 nationals arriving in the UK during the transition period will get the same rights as those who had arrived before 29 March 2019, and this includes the right to permanent residency.

- About the UK's **exit bill** it had become silent after the December 2017 Summit. Recently, however, the UK's fiscal watchdog, Office for Budget Responsibility (ORB), had published details and predicted payments of GBP 37.1 bn in total, to be paid off over 45 years. This is significantly less than the GBP 66 bn originally predicted and demanded by the EU. Both sides would have been well advised to postpone the exit bill issue to the end of their negotiations, as it is and remains a typical "the-bazar-is-open" issue to be left to a point in time at which each side has a feeling how much the other side conceded and how much this might be worth (please see also item 1.2 in our GSK Update of 13 September 2017 "Brexit is coming! State of negotiations…"). Now, however, it seems that UK has accepted a "divorce bill" of approximately GBP 35 to 39 or perhaps 40 bn to be paid off until 2064.

- Furthermore, the matter of the "**transition period**" had to be settled; it is intended to do this as part of the Withdrawal Agreement (Appendix 8). In this respect, there had been negotiating directives given by the EU Council to the Commission on 15 December 2017 as well as a decision by the Council of 22 January 2018 plus an annex thereto dated 29 January 2018 and a General Affairs Council decision of 29 January 2018. However, as already mentioned, all of this does not mean that the envisaged transition period until 21 December 2020, in which the whole of the EU acquis will continue to apply to the UK as if it were a member state, had already been agreed: Nothing is agreed until everything is agreed. According to the political agreement reached on 19 March 2018, the transition period will end in December 2020 (ie it will be a little shorter than the two years originally proposed by the UK Government) and it cannot be extended.

- In regard of the **Northern Irish border** issue Michel Barnier had offered the UK three options: (i) No final agreement on this matter

in the Withdrawal Agreement (ie before March 2019) but in the future FTA (ie in the meantime a hard border to the Republic of Ireland), (ii) a "special solution" to be proposed by the UK (if there were any), or (iii) Northern Ireland remains in the EU Customs Union, which means that there would be effectively a border between Northern Ireland and the rest of the UK. Not surprisingly, the latter has been immediately refused by prime minister May with harsh words. On 19 March 2018, the UK has come to accept that Northern Ireland and the Republic of Ireland would stay in regulatory alignment (ie a "backstop" agreement would come into force), unless a "hard border" can be avoided either by a future trade deal (phase 2 of the negotiations) or by using new technology allowing an invisible border. In other words, there is no real idea on how to solve this issue.

In order to reach the above-mentioned political agreement on 19 March 2018, the UK had to make a few additional concessions: (i) It may negotiate and sign own free trade agreements with other countries, but they will only come into force after the transition period has ended. (ii) Although Gibraltar has explicitly been included in the scope of the said political agreement, a respective deal with Spain is still needed before it can come into force. (iii) During the transition period the UK must continue to abide to the European Court of Justice rulings. (iv) EU27 vessels will have continued access to the UK's fishing waters and the UK will still be subject to EU fishing quotas, but will have to be consulted on the levels and the EU cannot reduce the UK's quota.

The UK has paid these prices in order to give its business some reassurance that there will not be an imminent regulatory cliff edge on 29 March 2019. And the British Chambers of Commerce had immediately commented the political agreement of 19 March 2018 by saying "that they will face little or no change in day-to-day business in a short term". Others point out rightfully that further uncertainty remains, as nothing is agreed until everything is agreed, and that therefore the said political agreement may be a pyrrhic victory.

Phase 2 matters

In addition to all of the above, phase 2 of the Brexit negotiations will now also deal with the future relationship between UK and EU and, thus, mainly with the FTA desired by the UK. Given that it usually takes many years, if not decades, to agree on a free trade agreement between nations, it is unrealistic to hope for the FTA between UK and EU to be concluded before the Brexit, but it could also turn out to be over-optimistic to hope for its conclusion before 31 December 2020. If not, the transition period could possibly be amended, but not for ever and such amendment would be politically difficult, if not impossible, for the UK. However, irrespective of the time needed for it, it will not be easy to achieve. Currently, major positions of UK and EU seem rather divergent, some even irreconcilable:

- For the UK it is important that the FTA covers services, in particular **financial services**. The EU stresses the point that many free trade agreements do not cover services and, if they do, they do it only in a very limited way. (Given the importance of financial services for the UK, but actually also for the EU, one hopes that both sides will come to a meaningful agreement on this point.)

- It is clear to both sides that either after Brexit or, if any, after the end of the transition period, there will be no EU passporting possible in both directions. In terms of what it should be replaced with, the EU side seems to focus on its existing **third country equivalence** rules in various pieces of EU law, whereas the UK side considers this insufficient and asks for a new type of **mutual recognition and access system**, ideally one that includes a new bilateral body to be set up to arbitrate on the compatibility of the *acquis communautaire*, on the one hand, and the future UK law, on the other hand (perhaps along the lines of the "Forum for Regulatory Alignment" proposed by IRSG; see above). In the event of differences, that body should be able to revoke market access. (Currently, it does not look very likely that the EU will go this route.)

- In the EU's view, in light of the defining character of the four fundamental freedoms for all EU law, any so-called "cherry-picking", or

anything roughly looking like a kind of "cherry-picking", would be the ultimate evil in the world and has under all circumstances to be avoided. In contrast, in the UK's view, every FTA has elements of "**cherry-picking**". (At some point the two parties might come to the conclusion that including rules on different industry sectors into a FTA and not including such rules in regard of other sectors is not really, but that trying to select certain rules and not applying others to the same industry sector actually is, "cherry-picking".)

- PM Theresa May's declared aim is to conclude a "**Canada plus**" agreement (whatever she means by this) for the UK, whereas the EU side is never tired of mentioning the examples of Ukraine or Canada as possible blueprints for the FTA with the UK (rhetorics will go, law will stay!).

- The British Government wants the UK to leave the Customs Union and to replace it by a newly designed "**customs partnership**". (Whether this is an alternative for the EU as well remains to be seen, but it is worth discussing). However, it is also important to mention that Labour Party leader Jeremy Corbyn has said that he wants Britain to remain in the Customs Union and, as some Conservative MPs have taken the same position, it is currently not inconceivable that there could be a majority in Parliament supporting a continuing membership in the Customs Union.

- Another big issue of controversy is the **continuing jurisdiction of the European Court of Justice (ECJ)** as sole ultimate interpreter of EU law, as demanded by the EU and rejected by the UK. Using an arbitration clause and/or arbitration court regime in the FTA does not seem to solve this issue, as arbitration between sovereign states is increasingly publicly criticised and thus currently politically undesirable (and, as mentioned above, limited by a recent court ruling of the ECJ).

EUR Clearing

A further area of particular interest is EUR clearing (please see our German language GSK Update of 28 August 2017 "*EUR-Clearing nach dem Brexit*"), and in particular the EU's desire to have their own, additional, oversight of UK clearing houses clearing in EUR. Recently, this has been critically commented on by both British politicians (eg, MEP Kay Swinburne has said that one should trust home supervisors of foreign clearing houses and should not legislate for "dual oversight") and US sources (being afraid that US clearing houses would get too many regulators to deal with).

However, generally, the EU's demands are not unreasonable as a failure of an UK clearing house could create immense damage and require such massive amounts of EUR that it could lead to economic damages in the Eurozone. Because of a similar analysis the USA for example does roughly the same with respect to USD clearing abroad, including Europe. (Therefore, and despite the massive business interest of the UK to keep the bulk of EUR clearing in the City of London and of the EU to shift it to the Continent, it is more likely that both sides will come to an arrangement in this matter, and that none of this will lead to massive frictions with the USA.) The Deutsche Börse Group has already declared that it will try to seek more EUR clearing business in the over-the-counter (OTC) interest rate derivatives sector and is promoting a "Eurex Clearing Partnership" programme.

UK troubles

In addition to the above-described controversies between UK and EU, there are also a few further and more home-made troubles in the UK, for example:

- In the light of respective rulings by the UK's highest courts (please see our GSK Update of 20 February 2017 "Latest from the Brexit front – UK Supreme Court agrees with High Court, ..."), it is clear that the **EU Withdrawal Bill** will require parliamentary support, ie a majority in Parliament. Although this has until now been the case, recent statements by the Labour Party and some dissidents in the Conservative Party make a change of majority in regard of certain aspects of this legislation (eg, the Customs Union) not inconceivable.

- Furthermore, the Withdrawal Bill seeks to transpose EU legislation into UK law, but **Scotland and Wales** are now trying to reach an agreement with the UK Government over power-sharing in the context of legislative powers falling back from the EU level to the national level. This relates to areas such as genetically modified crops, organic farming, fishing quotas, food labelling, food safety and pesticides, over which the Parliaments of Scotland and Wales seek jurisdiction.

- Finally, it could become a problem for the UK that as of the Brexit on 29 March 2019 it will not be a member of the existing **international agreements and free trade agreements** of the EU with other countries. There are approximately 750 such international agreements, including 65 free trade agreements. As the respective counterparties would have to agree to the UK remaining a party during the transition period, this cannot be avoided without their participation. But the EU is currently not seeking such acceptance from all these foreign parties. The UK seems not to be keen either, as it has repeatedly declared that it intends to conclude own free trade agreements with as many nations as possible (to have this possibility is one of the reasons why the UK wants to leave the Customs Union). Given that the EU's Common Market is the world's most lucrative marketplace with a 500 m customer base, more than eight times the size of the UK market, it is really difficult to understand how the UK Government can believe that it will be able to negotiate better trade deals with foreign countries than the EU. Not to speak of the administrative challenge to introduce on 29 March 2019 new trade and customs rules in respect of all these countries.

Troubles in Germany?

The Withdrawal Agreement will be supra-national law ranking higher than national laws. If it contains rules on a transition period and sets forth that the UK should during this period be treated as if it still were a member state, this would be an EU law command and all national laws referring to the EU and deriving from EU laws will have to be interpreted in an EU-compliant way (*gemeinschafts-konforme Auslegung*), ie in a way that the UK is still included. However, as this might not always be entirely clear (eg where German law provisions referring to the EU are not deriving from EU laws), there are currently enquiries made on whether such a transition situation would require which kind of German national legislation (eg including legislation regarding the future of German corporates established as English law Limiteds). It seems that members of the German Parliament are already discussing this issue and that Germany's Foreign Ministry has consulted all other Government branches to give their input on this until end of March. Of course, this will also include financial markets regulation.

UNSAFE FUTURE – HARD MOVES

There are 12 months left until Brexit day on 29 March 2019. And, if there will be the currently envisaged transition period, there are 21 months

left until this period will end and the UK really be a "third country". Not that much time!

Today most market participants seem to expect, or at least to prepare for, a "hard Brexit", as, even if the Withdrawal Agreement is agreed including a transition period, they do longer believe that (in some distant future) the UK will be able to negotiate a FTA deal significantly better than "normal" free trade agreements. In other words, despite the political agreement on 19 March 2018, the unsafety of the last months is going to continue, and it will be better, safer, more prudent and appropriate to prepare for the worst.

As a result, large parts of the British industry in all its sectors will have to activate their (certainly costly and potentially irreversible) contingency plans – if they don't have it done yet. Large international financial institutions in the City have started this already and will move (not only insignificant parts of) their London businesses to the Continent, namely to Frankfurt, Paris, Luxembourg and Amsterdam, and to Dublin. Everyone in the financial sector needs to analyse one's options, including establishing a subsidiary or branch or relying on cross-border business or on a fintech solution. Those who have not done it yet, or not sufficiently carefully, now really need to "swing their hooves".

This is not only true for financial markets participants in the UK, it is equally true in regard of German/Continental market players considering the UK as a market or future market. And this is also true for all companies from other industries doing or considering to do cross-border business between the UK and the EU.
On 19 March 2018, a report by the House of Common's Brexit select committee had suggested that the UK should seek a longer transition period than until 2020. Perhaps that was not the worst idea these days.

Peter Scherer, LL.M. (I.U.)
Attorney-at-Law (Germany)
Frankfurt Office
peter.scherer@gsk,de

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www.gsk.de

GSK STOCKMANN

BERLIN
Mohrenstraße 42
10117 Berlin
Tel +49 30 203907-0
Fax +49 30 203907-44
berlin@gsk.de

FRANKFURT/M.
Taunusanlage 21
60325 Frankfurt
Tel +49 69 710003-0
Fax +49 69 710003-144
frankfurt@gsk.de

HAMBURG
Neuer Wall 69
20354 Hamburg
Tel +49 40 369703-0
Fax +49 40 369703-44
hamburg@gsk.de

HEIDELBERG
Mittermaierstraße 31
69115 Heidelberg
Tel +49 6221 4566-0
Fax +49 6221 4566-44
heidelberg@gsk.de

MUNICH
Karl-Scharnagl-Ring 8
80539 München
Tel +49 89 288174-0
Fax +49 89 288174-44
muenchen@gsk.de

LUXEMBOURG
GSK Luxembourg SA
44, Avenue John F. Kennedy
L-1855 Luxembourg
Tel +352 2718 0200
Fax +352 2718 0211
luxembourg@gsk-lux.com