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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Memorandum of Understanding establishing a framework for financial services regulatory cooperation between the European Union and the United Kingdom of Great Britain and Northern Ireland

Delegations will find attached Memorandum of Understanding establishing a framework for financial services regulatory cooperation between the European Union and the United Kingdom of Great Britain and Northern Ireland.



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

General Affairs
International affairs

Brussels, 17 May 2023

**NOTE FOR THE ATTENTION OF THE WORKING PARTY ON THE UNITED
KINGDOM**

SUBJECT: Commission's intention to enter into a Memorandum of Understanding on behalf of the EU establishing a framework for financial services regulatory cooperation between the European Union and the United Kingdom of Great Britain and Northern Ireland.

CONTACT POINTS:

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REMARKS:

The Joint Declaration on financial services regulatory cooperation between the EU and the United Kingdom ("the Joint Declaration"), agreed jointly with the Trade and Cooperation Agreement (TCA) between the EU and the United Kingdom, committed both parties to establish structured regulatory cooperation on financial services.

The cooperation aims to establish a durable and stable relationship based on a shared commitment to preserve financial stability, market integrity, and the protection of investors and consumers. In the Joint Declaration, both parties committed to agree on a Memorandum of Understanding (MoU) establishing the framework for this cooperation by March 2021.

Negotiations on the MoU were led by DG FISMA, on behalf of the Commission. Both the Council and the European Parliament were consulted regularly throughout the

process, in an open and transparent manner, both in advance of opening discussions with the United Kingdom and throughout the negotiation process.

The MoU establishes, *inter alia*, a Joint EU-United Kingdom Financial Regulatory Forum (“the Forum”). The Forum should serve as a platform to facilitate structured regulatory cooperation in the area of financial services pursuant to the Joint Declaration and the MoU.

The Forum is intended to represent the views of the Commission and the United Kingdom Government (represented by His Majesty’s Treasury), incorporating input from:

- (a) representatives from relevant EU and United Kingdom financial regulatory, supervisory and resolution bodies;
- (b) in the case of DG FISMA, in relation to a specific issue, representatives from EU Member States;
- (c) in the case of His Majesty’s Treasury, other departments of the United Kingdom government; and
- (d) other relevant experts, subject to prior approval by the Participants, in relation to specific issues.

The MoU, as attached to this note, was approved by the Commission on 17 May.

The text of the MoU is hereby submitted for endorsement, together with a draft [joint] statement setting out the modalities of Member States’ involvement in Forum meetings. In that regard, the Commission is committed to transparency and inclusiveness with the Council, including in relation to consultation and timely reporting before and after Forum meetings.

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Memorandum of Understanding establishing a framework for financial services regulatory cooperation between the European Union and the United Kingdom of Great Britain and Northern Ireland

Pursuant to the Joint Declaration on Financial Services Regulatory Cooperation between the European Union (EU) and the United Kingdom (UK) of 24 December 2020, the European Commission (“the Commission”), represented by the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA or its successor), and the Government of the United Kingdom of Great Britain and Northern Ireland (“HM Government”), represented by His Majesty’s Treasury (“HM Treasury”) (hereinafter “the Participants”) jointly endeavour to pursue a robust and ambitious bilateral regulatory cooperation in the area of financial services based on the arrangements set out below.

Based on a shared objective of preserving financial stability, market integrity, and the protection of investors and consumers, these arrangements will provide for:

- (a) bilateral exchanges of views and analysis relating to regulatory developments and other issues of common interest;
- (b) transparency and appropriate dialogue in the process of adoption, suspension and withdrawal of equivalence decisions;
- (c) bilateral exchanges of views and analysis relating to market developments and financial stability issues; and

(d) enhanced cooperation and coordination including in international bodies as appropriate.

If appropriate, and in a manner consistent with applicable policy, law and good administrative practices, each Participant will endeavour to share information on regulatory developments to allow for a timely identification of potential cross-border implementation issues, to the extent that such information is available and can be shared between the Participants.

1. The Participants hereby establish the Joint EU-UK Financial Regulatory Forum (“the Forum”). The Forum should be understood to represent the views of the Commission and HM Government, incorporating input as appropriate in accordance with paragraph 5.
2. The Forum should serve as a platform to facilitate structured regulatory cooperation in the area of financial services pursuant to the Joint Declaration and this Memorandum of Understanding. In particular, the Forum is intended to take stock of progress and to undertake forward planning of regulatory cooperation with general operational objectives to:
 - (a) improve transparency;
 - (b) reduce uncertainty;
 - (c) identify potential cross-border implementation issues, including concerns linked to potential regulatory arbitrage by firms;
 - (d) as appropriate, consider working towards compatibility of each other’s standards;
 - (e) when relevant, promote domestic implementation consistent with international standards;
 - (f) share knowledge to facilitate a common understanding of the EU and UK’s regulatory frameworks; and
 - (g) exchange information and views on other issues of common interest within the scope of these regulatory cooperation arrangements.
3. The regulatory cooperation should not restrict the ability of either jurisdiction to implement regulatory, supervisory or other legal measures that it considers appropriate.

4. The Participants affirm their intention that the meetings of the Forum will be held alternately in the EU and the UK, at least semi-annually, and whenever the Participants consider it necessary. Meetings may be held by video conference, where the Participants so decide. Meetings between Participants are not limited to the semi-annual meetings referred to in this paragraph.
5. DG FISMA and HM Treasury, respectively, may invite, where appropriate:
 - (a) representatives from relevant EU and UK financial regulatory, supervisory and resolution bodies;
 - (b) in the case of DG FISMA, in relation to a specific issue, representatives from EU Member States;
 - (c) in the case of HM Treasury, other departments of the United Kingdom government; and
 - (d) other relevant experts, subject to prior approval by the Participants, in relation to specific issues.
6. The semi-annual Forum meetings should be prepared in advance by means of ad hoc or intersessional meetings or calls at senior technical level and/or at expert level on the basis of a mutually agreed work plan linked, as appropriate, to the EU and UK regulatory processes and taking into account the agendas of relevant international bodies including, *inter alia*, the G20.
7. The Participants should each designate a contact point to facilitate regulatory cooperation.
8. Participants may jointly decide to invite, on specific issues, experts to provide input. Contacts between Forum meetings may include setting up ad hoc groups, meetings, or calls on issues that require attention.
9. The Forum may, as appropriate and in a manner consistent with applicable policy, law, good administrative practices and this Memorandum of Understanding, discuss any issue relevant to regulatory cooperation in the area of financial services.

10. Discussions in the Forum will not restrict the ability of either the EU or the UK to implement regulatory, supervisory or other legal measures that either considers appropriate.
11. In a manner consistent with applicable policy, law and good administrative practices, Forum activities may include:
- the promotion of timely domestic implementation of relevant international regulatory standards in the financial services sector taking into account the specific characteristics of the EU and UK regulatory regimes;
 - the sharing of information on regulatory developments, including developments of supervisory frameworks, to allow for a timely identification of potential cross-border implementation issues, to the extent that such information is available and can be shared between the Participants, to support an ongoing shared understanding of the relevant regulatory frameworks, particularly where measures may have, or have had, a significant impact on the financial services sector from either jurisdiction or may result in market fragmentation;
 - exchanges of views on the respective policies, rules and processes concerning deference regimes, such as equivalence, or other tools used to address cross-border issues;
 - dialogue on the Participants' autonomous decisions to adopt, suspend or withdraw equivalence relevant to one or the other side;
 - exchanges of views, as appropriate, about risk analyses and the potential economic impacts of proposed measures to the extent that such analyses have been conducted and can be shared between the Participants, particularly where measures may have, or have had, a significant impact on the financial services sector from either jurisdiction or may impact market interconnectedness. If appropriate, these exchanges of views may include sharing an analysis of benefits to, and in the case of measures already in place, any unintended consequences for, financial services or financial markets;

- discussions on macro-prudential developments and financial stability risks;
 - exchanges of views on regulatory issues, in a bilateral context, paying due respect to the regulatory interests of supervisory and resolution authorities and incorporating the views of EU and UK supervisory and resolution authorities;
 - discussions on issues of cooperation in multilateral contexts as appropriate and relevant in specific areas and, if needed, reflecting views of EU and UK supervisory and resolution authorities;
 - where practicable, sharing positions on agenda items prior to key G20 or other international meetings;
 - keeping each other informed, through the exchange of relevant supervisory and enforcement policies, to the extent that such information can be shared between Participants, about how effective supervision and enforcement of rules for implementing internationally agreed standards have been provided for, in particular in the areas where the UK or EU relies on the regulatory and supervisory framework of the other side; and
 - keeping each other informed about efforts to prevent and combat money laundering and terrorist financing as they relate to the financial services sector.
12. The Participants may release a joint statement after each semi-annual Forum meeting to give visibility to its outcomes. The statement may note progress on relevant topics, where necessary and appropriate.

13. The Participants should, where appropriate, engage with their respective stakeholders before and organise debriefings of relevant stakeholders after each semi-annual Forum meeting. Specifically, the Participants may share information about the Forum meeting agendas and deliberations with their (co-)legislators or other actors in their domestic regulatory processes, while respecting their institutional obligations.
14. In the interest of clarity, this Memorandum of Understanding does not create rights or obligations under international or domestic law, nor will there be financial obligations resulting from its implementation. This Memorandum of Understanding is not intended to interfere with cooperation outside of its framework, nor with cooperation between supervisory and resolution bodies.
15. The Forum may start its activities as soon as this Memorandum of Understanding is signed by both Participants. A Participant may at any time signal in writing to the other Participant its wish to revise or end this Memorandum of Understanding.
16. The foregoing record represents the understandings reached between the European Commission and the Government of the United Kingdom of Great Britain and Northern Ireland upon the matters referred to therein.

Signed [in duplicate] [at] On

[For the European Union]

[For the United Kingdom of Great Britain and Northern Ireland]

