

Financial Regulatory Alert

Akin Gump
STRAUSS HAUER & FELD LLP

UK and EU Agree to Establish Joint Financial Regulatory Forum

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The United Kingdom and the European Union have concluded technical discussions on the text of the Memorandum of Understanding (MoU)¹ referred to in the Joint Declaration on Financial Services Regulatory Cooperation agreed alongside the Trade and Cooperation Agreement (the “Agreement”) on 24 December 2020. See our prior alert² for a discussion regarding the significance of the end of the transition period.

Joint UK-EU Financial Regulatory Forum

Once signed, the MoU will create a framework for voluntary regulatory cooperation in financial services between the UK and the EU. The MoU will establish the Joint UK-EU Financial Regulatory Forum (the “Forum”), which will serve as a platform to facilitate dialogue and cooperation on financial services issues. The framework is comparable to what the EU has in place with the US and Japan. The EU and the UK must complete the necessary formalities before the MoU is signed, but it is expected that this will be done “expeditiously”.

Regulatory Co-operation

The MoU codifies the framework for regulatory co-operation proposed by the Joint Declaration. It is within this framework of regulatory co-operation that both sides will discuss how to move forward with equivalence determinations. The Forum commits neither the EU nor the UK to any equivalence findings. Whether equivalence is granted with respect to specific areas of the financial services industry and infrastructure is ultimately a political decision.

Divergence between the EU and UK Financial Regulation

Despite the positive developments on the MoU, there are clear indications that the UK and EU regulatory frameworks are likely to diverge over time, including proposed changes by the EU to the pre-Brexit regulatory framework, including to reflect the UK’s third country status. Further, the UK is considering its regulatory approach to financial services and seeking to tailor it for UK markets.³ While such divergence is unlikely to change the UK’s “outcomes-based” approach to granting equivalence, the EU has to date adopted a “line-by-line” approach to assessing the equivalence of the UK’s regulatory framework.

Contact Information

For further information or advice, please contact one of the partners named below or your usual contact at Akin Gump.

Ezra Zahabi

Partner
ezra.zahabi@akingump.com
London
+44 20.7661.5367

Helen Marshall

Partner
helen.marshall@akingump.com
London
+44 20.7661.5378

*The contribution of **Andrea Gonzaga** is gratefully acknowledged.*

The current regulatory landscape serves to underline the importance of investment managers operating and investing on a cross-border basis in the UK and the EU to remain up-to-speed with the areas of divergence and to plan ahead for compliance with the applicable EU and UK requirements in parallel.

¹ Technical negotiations concluded on UK – EU Memorandum of Understanding, 26 March 2021 (See [here](#)).

² “The End of the Brexit Transition Period: Compliance Requirements for UK Investment Managers and Advisers”, Akin Gump Financial Regulatory Alert, 5 January 2021 (See [here](#)).

³ Chancellor sets out ambition for future of UK financial services, HM Treasury, 9 November 2020 (See [here](#)).

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